

**“If we don't have time to take care of our fields,
the rice will die.”**

A REPORT ON FORCED LABOR IN BURMA

EarthRights International

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Editors

Tyler Giannini
Allison Friedman

Writing Team

Tyler Giannini
Allison Friedman
Isabel Goodman
Ryan Hecker
Amy Lehr

Field Research Team

Naing Htoo
Oum Kher
Sai Haktai
Mahn Nay Myo
Nai Kyaw
Amy Lehr
Isabel Goodman
Tyler Giannini
Jackie Imamura
Ann Putnam

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Security is EarthRights International's first priority. Those willing to speak out about oppression in Burma put themselves at risk. Therefore, all sources for ERI interviews remain confidential, and all interviewees remain anonymous. Interview texts have been edited to protect identifying information that would place individuals in danger.

All the interviews are on file with the organization. Redacted versions can be made available upon request. Contact infoasia@earthrights.org for more information.



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Southeast Asia Office
P.O. Box 123
Chiang Mai University
Chiang Mai 50202
Tel: 66-1-531-1256
infoasia@earthrights.org

U.S. Office
1612 K St. NW
Washington, D.C. 20006
Tel: 1-202-466-5188
Fax: 1-202-466-5189
infousa@earthrights.org

For more information on ERI, visit www.earthrights.org.

TABLE OF CONTENTS

Executive Summary	1
Main Recommendations	2
I. Summary Findings	3
A. The ILO and the SPDC	3
B. The System of Forced Labor.....	4
C. Armed Conflict: Villagers Caught in the Middle	6
II. Forced Labor in Burma: Its Forms and Their Impacts on Villagers.....	9
A. The Story of Nang Hseng	9
B. Portering and Guiding.....	10
1. Prisoner Porters.....	14
2. Forced Sentry Duty	16
C. Forced Labor on Infrastructure Projects and Military Camps	17
D. Forced Farming and the Story of Lung Zaw.....	22
E. Sexual Slavery and Other Crimes against Women	24
F. Expropriations and Forced Labor Fees	27
1. Expropriation of Food and Crops	27
2. Forced Labor Fees and Arbitrary Taxes	30
G. Awareness of Order No. 1/99 and Faulty Complaint Mechanisms	33
H. The Threat to the Fabric of Society	35
1. Restrictions on Access to Farms and Impacts on Livelihoods	35
2. Difficulties for Village Heads.....	38
3. Environmental Harms and Threats to Traditions of Local Resource Management.....	39
4. Leaving Burma for Thailand: The Disruption Continues	41
III. Conclusions and Recommendations	43
A. The Right to Freedom from Forced Labor.....	43
B. Recommendations.....	44
1. To the SPDC	45
2. To the International Labor Organization	46
3. To the International Community.....	47

EXECUTIVE SUMMARY

The Burmese military regime has used forced labor pervasively for decades despite international condemnation to end the practice. This investigative report shows that forced labor continues and is especially prevalent in those regions bordering Thailand where the Burmese military has a large presence. In these areas, where Shan, Mon, Karen, and other ethnic nationalities live, the Burmese authorities and particularly the army continue to operate with impunity. Interviews confirm that over the past year there has been no demonstrable change in the quantity or nature of the ruling military regime's use of forced labor in these regions, despite the regime's insistence otherwise. Finally, this report documents the plight of villagers who, after years of forced labor and other abuses, have seen no alternative to fleeing to Thailand. The testimonies throughout this report show that in addition to causing acute, immediate harms to some victims, forced labor steadily undermines traditions, ways of life and even the fabric of village society.

Between August 2004 and January 2005, EarthRights International (ERI) conducted interviews with individuals forced to work by various Burmese authorities. Villager after villager spoke of recent violations of the ban, including being compelled to porter, to act as guides for military battalions, and to build and maintain roads and military camps. Others recounted being forced to farm and provide crops, or prepare food for authorities, or stand guard against armed groups. Many had to perform multiple forms of forced labor. These violations are similar in both type and detail to those previously documented. Even as these forms of forced labor continue, some interviewees have observed an increase in the amount of payments, or fees, required and taxes that are levied on villagers. Burmese officials sometimes demand these fees in lieu of forced labor; at other times villagers are forced to make payments in addition to performing labor for the military battalions. Although forced labor in Burma was officially banned more than five years ago by Order No. 1/99, almost eighty percent of those asked about the ban had never heard of the Order and did not know that forced labor is illegal. Even victims who realized that the practice was unlawful knew of no way to complain of the numerous abuses.

This report provides information predominantly on the violations that have occurred during the past year, but many of those interviewed have lived with forced labor and other human rights abuses for much longer. These villagers suffer persistent and constant attrition as the devastating effects of forced labor and oppression multiply over years. The prevalence of forced labor drains many villagers of the time and energy necessary to make a living. Farmers, for example, who depend on their crops, must work two fields—one for the military, one for their families. Their crops suffer, hurting both their family's source of food and its income. The military's frequent demands for fees sink many villagers into financial ruin. Unable to continue under these conditions, many leave their communities where they have lived for years.

The Burmese regime has failed for years to seriously address the practice of forced labor in border regions. We call on the ruling State Peace and Development Council (SPDC) to follow the recommendations of the International Labour Organization (ILO) and immediately implement specific measures to stop the use of forced labor (see details in the Main Recommendations). The ILO, in turn, should increase its pressure on the Burmese military to transform its proclaimed commitment to ending labor abuses in Burma from words to action.

MAIN RECOMMENDATIONS

To address the serious and continued use of forced labor in Burma, EarthRights International (ERI) makes the following recommendations:¹

The SPDC must:

- (1) Disseminate information about Order 1/99, as supplemented, more widely and evenly throughout the country including border regions such as Arakan and Chin States, and along the Thai-Burmese border where large-scale abuses are reported.
- (2) Establish credible and effective complaint and investigative mechanisms.
- (3) Investigate and prosecute those using forced labor, including military personnel. Military officials have yet to be charged despite ample evidence of their involvement.

The ILO should:

- (1) Return to its 2000 position on forced labor, which called on ILO constituents to review any projects that might directly or indirectly lead to forced labor in Burma.
- (2) Immediately carry out a public information campaign as per its agreement under the Joint Plan of Action. This should be done independently of the SPDC.
- (3) Call for legislation that may be relied upon to ensure the complete eradication of forced labor in all its forms. Civilian and military courts should fully enforce such legislation.

The International Community should:

- (1) Apply more pressure in a vigorous and coordinated manner on the SPDC to improve conditions so that specific measures to eradicate forced labor can be effectively implemented.
- (2) Oppose large infrastructure projects such as major dams in Burma until there is credible evidence that such projects would not lead to labor abuses and other human rights violations. This should include refusing technical and financial support to such projects either directly or through subcontracting arrangements. There should also be incentives and penalties to discourage private industry from participating in such joint ventures. At a minimum, involvement in such projects should be conditional on independent monitoring by the ILO and other bodies to verify the absence of forced labor. Penalties imposing both legal and financial sanctions should be developed and implemented in cases where specific evidence of forced labor is found.
- (3) Promote the national reconciliation process, which is essential for de-militarization and peace in the country and the permanent eradication of forced labor and other human rights violations.

¹ See also Part III.B: Recommendations (for additional discussion, details and recommendations).

I. SUMMARY FINDINGS

Burma's history of military rule and forced labor are well documented. Authoritarian rule, in one form or another, has been in place since a coup in 1962. In 1988, following a mass popular democratic uprising and a subsequent violent and bloody crackdown, the State Law and Order Restoration Council (SLORC) took power. The military council never recognized the election held in 1990, which was won by the National League for Democracy (NLD). Daw Aung San Suu Kyi heads the NLD, and won the Nobel Peace Prize for her efforts to bring democracy to the country. In 1997, SLORC, which is made up of military officials, changed its name to the State Peace and Development Council (SPDC). The SPDC, headed by Senior General Than Shwe and Vice Army General Maung Aye, determines policy matters and rules the country.² The international community, including the United Nations, continues to urge the SPDC to democratize, but the regime has failed to take concrete steps in this direction.³ Burma's human rights record is also notorious, and the international community has consistently admonished the regime for its widespread violations of basic norms.⁴ Burma's military rulers have long been condemned by the international community for their reliance on forced labor, among other human rights abuses.

A. THE ILO AND THE SPDC

The International Labour Organization (ILO) has persistently advocated that the SPDC adopt measures to eliminate the practice of forced labor and to bring Burma in line with its obligations under international law and ILO Convention (No. 29). Since launching a Commission of Inquiry in the late 1990s, the ILO has taken consistent steps to pressure the regime, including adopting measures in 2000 that urged its constituents—governments, employers and unions—to re-evaluate their activities that might result directly or indirectly in forced labor. The ILO also opened an office inside Burma to monitor the situation, and in May 2003, the SPDC and the ILO agreed on a Joint Plan of Action designed to eliminate forced labor. The Plan has yet to be implemented.⁵ The ILO reviews the situation of forced labor in Burma several times each year to determine appropriate further measures. Most recently, in November 2004, the ILO decided to send a delegation of high level officials to meet with the SPDC.⁶ The delegation visited Burma in February 2005, and specifically sought to meet with Than Shwe and Maung Aye, who control the military and represent the only level where “the Government [of Burma] and military

² See, e.g., Report of the very High Level Team, “Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29),” Governing Body, International Labour Office, 292nd Session, GB.292/7/3, Geneva, March 2005, fn. 2 [hereinafter “Report of the very High Level Team”]. Than Shwe is SPDC Chairman, Commander-in-Chief of the armed forces and Minister of Defense. Maung Aye is SPDC Vice-Chairman and Army Commander. The Prime Minister, Soe Win, has authority only over civilian matters. *Id.*

³ See Report of the Secretary-General, “Situation of human rights in Myanmar,” 16 August 2004, UN Doc. A/59/269.

⁴ See, e.g., “Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar,” 30 August 2004, UN Doc. A/59/311.

⁵ See EarthRights International, “ERI Policy Statement on Joint Plan of Action” (undated), at 1-2.

⁶ See, Report of the very High Level Team, *supra* note 1.

chains of command are integrated.”⁷ The delegation “cut short its visit” when government officials indicated these generals were unavailable for meetings.⁸

For its part, the SPDC has failed to end the practice of forced labor in the country, especially in border ethnic nationality regions. The situation is particularly problematic in areas where armed resistant groups are active. In response to international pressure, the SPDC banned the practice of forced labor in Burma through the decrees of Order No. 1/99 in 1999 and a supplement to that Order issued in 2000.⁹ However, despite the urging of the ILO, the SPDC has not repealed legislation, such as the Towns and Village Acts of the early 1900s that permits the use of forced labor and remains on the books.

There has been some progress, though far too little to date, in combating the violations, especially in border areas. The observations of the ILO Liaison Officer in Rangoon in his recent February 2005 report summarize his views of the current situation:

On the basis of all the information available to him, the Liaison Officer a.i.’s general evaluation of the forced labour situation continues to be, as presented previously to the Governing Body, that although there have been some improvements since the Commission of Inquiry, the practice remains widespread throughout the country, and is particularly serious in border areas where there is a large presence of the army. One significant recent development which should be noted, however, is the prison sentences handed down to four local officials for imposing forced labour, and a number of other prosecutions initiated by the authorities concerning specific cases raised by the Liaison Officer a.i. In his view, these developments can contribute significantly to changing the climate of impunity surrounding officials who continue to impose forced labour, and thus to reducing the prevalence of the practice. It is vital, however, that similar steps are also taken with regard to the military, which continues to be responsible for the majority of forced labour. If the recent trend continues, and is extended to the army, it can represent the beginnings of a credible response to the problem.¹⁰

Of particular relevance to this report and the testimonies it contains are the ILO Liaison Officer’s two conclusions 1) that forced labor is pervasive in border areas where the Burmese military presence is large and 2) that the Burmese army continues to operate with impunity.

B. THE SYSTEM OF FORCED LABOR

⁷ *Id.*, para. 14, at 5.

⁸ *Id.*, paras. 6-8, at 2-3.

⁹ Technically, the Order restricted but did not eliminate the use of forced labor. International pressure eventually forced the SPDC to issue Supplementary Order to Order No. 1/99 (October 2000), which closed the loopholes in the earlier one.

¹⁰ Report of the Liaison Officer a.i., “Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29),” Governing Body, International Labour Office, 292nd Session, GB.292/7/2, Geneva, March 2005, para. 8.

The interviews conducted for this report found no significant changes in the prevailing system of forced labor. Burmese authorities—normally reported to be from the military—order village or town leaders to provide laborers for the military. In some situations, soldiers come and directly seize people to work for them, most commonly as porters. Much of the forced labor, especially on camps, roads, and other infrastructure, is done on a rotational basis.¹¹ As the rotation is typically based on each household providing one person, both women and men go, and people of many ages are forced to work. As adult males often work on farms or to earn wages, women and older and young people must work in their places.¹² Villagers cannot refuse to work, fearing punishment if they do refuse, and are only on extremely rare occasions paid for their work.¹³ Regardless if they are paid, they cannot refuse to work. They routinely must bring their own food, water, and tools to worksites, and at times must sleep at worksites away from their villages. Finally, work periods normally last an entire day or several days. Leaving in the morning and returning at night is common for camp or road work near the village or town. Porters often must go for much longer periods—lasting from days to weeks. While individual episodes of forced labor may not impact a family severely, the constancy of the demands does, as this Shan villager described:

I came to Thailand . . . because we didn't have enough time to work for ourselves. We had to work for them [the soldiers] about three days each week; only had two days for ourselves. We had to do *loh-ah-bey* [forced labor]; we had no choice. The work is not really hard, but they come and ask all the time. Sometimes, we have to do small things: things not in the military camp but hey keep us busy for the military—or build a road for them. Sometimes they say they will pay us, but they never do.¹⁴

In addition to the oppressive system of forced labor, parts of Burma find themselves in armed conflict. Forced labor exacerbates the strain that armed conflict places on villagers and townspeople in the vicinities.

¹¹ See, e.g., ERI Interviews #50, 53, 57, 60, 65, 71, 72 and 73 (2004).

¹² See, e.g., ERI Interview #65 (2004) (“Both men and women, even pregnant women had to go. This is because each family had to do portering and *loh-ah-bey*; someone had to be sent. They took children as young as twelve, right up to 50 years old.”). Some types of forced labor appear to be more gender specific: portering for men; and other forms such as work on roads may see women more commonly used.

¹³ Only two people reported being paid for their work, and neither went willingly. See ERI Interviews #51 and 93 (2004).

¹⁴ ERI Interview #57 (2004); see also ERI Interview #50 (2004) (“Every week, I had to do something for the military.”); ERI Interview #59 (2004) (“I had to go and do work every three days for the last two or three years since the battalion came to build the camp”); ERI Interview #65 (2004) (“We could not refuse, and we did not get paid. People had to take their own food, water and tools. They had to work from 6 am to 5 pm, whatever work they were doing. The farms were an hour’s walk from the village. . . . The village head would inform the people of the order to go. The families went in turns. If they did not go, the village head said the military would kill the person.”); ERI Interview #75 (“The amount of time depended on how quickly we worked: if we did not finish, we had to go back the next day. People started at 6:30 am and worked until noon. We would start [again after lunch] and finish at 6 pm. People often came home to eat—the camp was about one mile away from the village. We had to bring knives and hoes. We were not paid for the work. Both men and women worked, unless they were several months pregnant. People as young as ten or eleven and as old as 60 or older do work.”).

C. ARMED CONFLICT: VILLAGERS CAUGHT IN THE MIDDLE

The political and military context in which the villagers and townspeople live also significantly impacts their forced labor experiences. Forced labor exists throughout Burma, even in non-conflict areas, but in more militarized regions the situation of forced labor is at its worst. The international community has less access and exposure to forced labor abuses in armed regions of Burma. Even the ILO is out of reach of most rural areas where conflicts are ensuing. In Burma, there are three military situations: 1) areas controlled by the Burmese military, 2) areas controlled by resistance groups, and 3) disputed areas.¹⁵ For those interviewed for this report, the military situation in a given area was a critical variable. In border areas where the Burmese military maintains strong control, camp-building, road-building, and forced farming along with fees is extensive and frequent in border regions. This report has little information on areas controlled by resistance groups.¹⁶

In disputed areas, the interplay between forced labor and armed conflict is complex, but the end result is that the lives of villagers are particularly dangerous and affected in these situations. Several factors come together to worsen the lives of villagers in these situations. The increased presence of Burmese military combined with the suspected or real presence of armed resistance groups reinforces the effect on those villagers who are caught in the middle. Those interviewed explicitly linked the Burmese military presence and the presence of resistance groups:

The Burmese soldiers believed that if we were not in the village, we were talking with or helping the Shan soldiers. I never met the Shan soldiers, but there were rumors that they were coming or in the area. The Burmese soldiers were all around the area; they stayed in the village and lived there too.¹⁷

In disputed areas where the Burmese military still has some significant control, forced labor, especially portering, is intense as the military seeks to eliminate its opponents. Increased Burmese military presence traditionally brings with it additional abuses. One Shan villager observed the link between a decrease in portering with depopulation associated with relocations and the lack of resistance groups in the area: “I think the amount of portering has decreased because there are fewer villagers around and also there are fewer SSA [Shan State Army] in the area.”¹⁸

In disputed areas, some people attempt to stay in the forest beyond the daily control of the SPDC’s forces. Some describe situations that may be like free-fire zones. Ironically, these internally displaced peoples (IDPs) may experience less direct forced labor but are often subject to more violence than the population remaining in their villages. Villagers report that they are

¹⁵ Areas controlled by resistance groups could be further distinguished between ceasefire and non-ceasefire areas, but for purposes of this analysis, such a further classification is unnecessary. The bulk of those interviewed came from either areas controlled by the SPDC or disputed areas.

¹⁶ One official from the Mon ceasefire area stated, “In non-ceasefire areas, there continues to be forced labor in various forms. For example, people have to build military outposts. In non-ceasefire areas, the soldiers are rude and treat them badly. In the ceasefire areas, they are treated badly sometimes, but not as often as in non-ceasefire areas.” ERI Interview #74 (2004).

¹⁷ ERI Interview #58 (2004).

¹⁸ ERI Interview #64 (2004).

BOX 1: THE STORY OF BA NOUNG

Ba NOUNG, whose name we cannot reveal for her protection, paints a vivid picture of how civilians are stuck between the choice of living in military controlled areas and areas where they are suspected of sympathizing with resistance groups. As a 55-year-old Shan woman from Ga Li village in Gaeng Kham Township, she described the burdens of forced labor in her village:

There was *loh-ah-bey* [forced labor] and portering in Ga Li. My son was forced to do *loh-ah-bey* on the corn farms every year for six years. He had to go every seven days. When he was portering, my daughter had to go. He went with ten or twenty other people, all from the village. . . . People also had to make and maintain the road from Ga Li to Kun Hing. The villages are two hours from each other, and this was a main road. . . . We spent most of our time working for the military, and we could not earn anything. . . . They were still taking people for *loh-ah-bey* when we decided to move to the farm.

Despite such burdens, Ba NOUNG's decision to move was not an easy one and led to new difficulties and fears associated with living in areas where the Burmese military felt at risk:

I had a farm of my own, but I could not live in the village. In [Ga Li], the military always made my son serve them. We moved to my farm about one and a half hours outside the village. But after we moved, the Burmese military suspected my family and others of having ties with the SSA [Shan State Army]. They came to the farm to search for them and threatened us. We hid from them.

The military base was in the town of Gaeng Kham and Kun Hing, but the patrol went everywhere, even to the farms and the jungle. They would take anything they found on their patrols—from chilies to hens. If they met people outside the village, they would beat and torture them, or shoot them dead.

Finally, in mid 2004, Ba NOUNG decided to move to Thailand because the Burmese military made it too "difficult to work and earn a living." ERI Interview #65 (2004).

forced to hide and move often from place to place. They face very uncertain situations, living in fear of being surprised by soldiers, taken away to porter, attacked, shot or raped. One woman was so shaken by her experience that she left for Thailand very soon after having a run-in with the military near her farm:

The [soldiers] threatened me not to go to the farm; if I did, they said they would shoot and kill me. They said I could not go back, and I was afraid and ran away. [It] made me feel sick and depressed. . . . [W]e left one month later.¹⁹

Another villager stated: "My friend and I went to the farm in June 2004. On the way, we ran into about ten soldiers on patrol. . . . I ran away, but they caught my friend and burnt his hand and asked about the SSA [Shan State Army]."²⁰

¹⁹ ERI Interview #51 (2004).

Stories like these and that of Ba Nong (see Box 1) illustrate that the villagers' way of life is at risk and the fabric of society is breaking down in parts of the border regions and disputed areas. The Burmese military often restricts the movement of rural farmers; one villager said, "My farm is a little far from my home—about two hours walking. The military would not allow us to stay and sleep on the farm."²¹ Farmers' crops suffer and their means of sustenance and income are severely impacted without regular access to their farms. Combined with increased demands for forced labor, the cumulative effect can be too much for many families. Additionally, the military often uses significant environmental resources to build its camps as it moves into areas, putting further strain on rural villagers.²² The military also target and abuse village heads, threatening the traditional leadership structure and the stability of people's lives.

In this atmosphere of violence, villagers and townspeople like Ba Nong face the difficult choices of staying in their homes and performing forced labor, hiding in the forest, or fleeing to Thailand, which is often the last resort. Ba Nong's story is unfortunately not unique. Throughout this report villagers we interviewed explain their efforts to figure out a way to survive and provide for themselves and their families under the regime's oppressive practices of forced labor and other human rights violations.

²⁰ ERI Interview #59 (2004). He continued: "The military would make use porter. This happened in June 2004 because the military heard there was a movement of SSA, and they wanted to perform an operation. . . . [Porters] can't run away. People say if you run away from portering, the military will shoot you." *Id.*

²¹ ERI Interview #50 (2004); *see also* Part II.H.1: Restrictions on Access to Farms and Impacts on Livelihoods.

²² *See* Part II.H.3: Environmental Harms and Threats to Traditions of Local Resource Management.

II. FORCED LABOR IN BURMA: ITS FORMS AND THEIR IMPACTS ON VILLAGERS

The types of compelled work are consistent with those reported in the past. Broadly speaking, the forced labor demanded in the various geographic areas includes: portering; expropriations of food, land, and other possessions; building and maintaining camps and roads; and forced farming. In Mon areas, villagers were also required to guard and patrol the villages. All of these abuses have been consistently recognized as forms of forced labor and are prohibited under international law.

A. THE STORY OF NANG HSENG

Nang Hseng, which is not her real name, lived in a village near Nang Hee in Nam Zarng Township of Shan State. She is Shan and Buddhist, like most others from her area of Burma. She fled to Thailand in late 2004. A 36-year-old widow with two children, her story captures the essence of how years of violence and forced labor take their toll on those trying to eke out an existence for themselves and their families. She describes her decision to leave:

I came to Thailand a little more than two months ago. It was so difficult to live in Burma. . . . My husband had died several years ago after portering and being kicked and beaten. After my husband died, I moved between my village and the town of Nam Zarng. In 2004, I spent my time in Nam Zarng, but I could not survive because there was so much forced labor. I went to work as a forced laborer every five days during the five months before I came to Thailand. I just could not survive as a daily laborer any longer.

Nang Hseng spoke of the difficulties faced being a farmer in her village where the ever-present Burmese military patrolled regularly, did as they wished, and prevented villagers like her from freely tending her farm and livestock:

The Burmese military might surprise me if I was outside the village and going to or working on the farm. I could only go to my farm when the military was not there. If I did not go to my farm regularly, oxen would eat my crops. I used to own my farm, which was about four acres. . . . The military would come and go regularly. . . . The military would take hens, pigs, and eggs or anything else that they wanted in the village.

Nang Hseng described the death of her husband, Chai Zaw, several years ago:

Whenever the military wanted someone, they would just take them. I don't know well about other porters, but my husband had to go for fifteen days. The time that my husband went, there were three or four others that had to go as porters with him. He could not refuse. It was dark and late night about 2 am when they took him, so I don't know what battalion it was. There were about ten soldiers that

came to the house and took him away. After he returned from portering, he died four days later. He was coughing with blood, and then he died a few days later. He said that the loads were very heavy, and when he could not continue, the soldiers kicked and beat him.

After the death of her husband, Nang Hseng did not immediately move to Thailand; instead, she decided to move to the town of Nam Zarng and test out the situation there. Abandoning her farm, she became a day laborer. The conditions were no better:

I just left the farm, and no one is taking care of it. . . . After my husband died, I moved. . . . There were also military in the town. . . . I had to do *loh-ah-bey*, including carrying water, sand, rocks, and working on the Nam Zarng-Taunggyi road as well as doing farming. For long periods of time, I had to go every five days. I went every five days for five months before I came to Thailand.

The working conditions were typical: it was on a rotational basis; no payments; fear; children working along with adults:

I was never paid for the work. We would start work in the morning around 8 am. We would finish around 5 pm. If we did not go, I was afraid that we would be beaten, kicked, killed or your house could be burned or be jailed. The military did not give us anything when we went to work for them. We had to bring our own food and water when we went to work for them. We would also have to bring our own tools. . . . I saw people as young as ten to as old as 40 or 50 years old. There were people from many different places working on the road. On the days that I went, I saw sometimes 30 or 40 people altogether. To get to the site, I would walk—sometimes half an hour, one hour or an hour and a half, up to two hours, depending on where it was.

The cumulative effects of forced labor became too much, and Nang Hseng fled to Thailand where she joined thousands of others like her. Unfortunately, each month, more than a thousand people from Shan State alone come to Thailand in search of a better life.

B. PORTERING AND GUIDING

Over one third of those villagers interviewed described episodes in 2004 where either they or their fellow villagers were forced to porter or guide for the military.²³ While most of the interviewees expressed a general sense of dislike for all kinds of forced labor, they were

²³ 2004 incidents of portering and/or guiding were described by 23 of the 65 people interviewed. See ERI Interviews #52, 59, 61, 65, 68, 71, 75, 77, 78, 82, 83, 85, 90, 91, 94, 100, 101, 103, 104, 109 (forced guiding only) 111, 118, and 122 (2004). Episodes of guiding were less frequent and almost always reported by those same interviewees subjected to portering; ERI Interview #109 (2004) was the only interview where guiding was recently experienced, but not portering. 2003 incidents of portering were recounted in ERI Interviews #50, 56, 60 and 64 (2004) in addition to those interviews already mentioned.

especially afraid and angry about being made to porter.²⁴ Though other forms of forced labor also resulted in pain and exhaustion, portering and guiding caused the interviewees and their families to suffer the most serious injuries. While some villages had a rotation system in place for selecting the villagers that would be made to porter, in other villages, villagers were often forced to porter or guide at gunpoint, without advance notice. Both men and women are required to act as porters, although men go more regularly.²⁵ Portering and guiding are viewed as especially daunting assignments for women, who may be subject to rape and other sexual violence while away from their villages.²⁶ The amount of portering demanded from villagers depended greatly on the presence of splinter groups in the nearby areas. As one villager from the Ye Township explains, “There is much more portering in the last four years—this is because they are chasing the Mon splinter group.”²⁷ A villager from the Ye Township agrees, stating: “I think there is more and more portering because the soldiers are trying to clear the rebel group. More soldiers are arriving in the area.”²⁸

Porters were typically required to carry very heavy loads, sometimes for over a month at a time, with little time to rest and little or nothing to eat. The heaviness of the burdens carried does vary, but it is often much more than is carried by the soldiers themselves. As a former soldier reported about one 2001 occasion when he was guarding porters, “[s]oldiers only carried small things and yet we were so tired. The villagers carried heavier things so they must have been so much more tired. I sympathized with them.”²⁹ In some villages, porters did not carry heavy loads on their shoulders, but used ox carts, or less commonly, bicycles and boats to assist them. The ox carts that were used for portering purposes in such cases were generally expropriated from other villagers, without compensation.³⁰ Interviewees further reported that if they stopped to rest even for a few seconds, they were beaten severely. One 55-year-old woman reported that her son, who had portered many times, often for as long as a month each time, was “kicked and beat[en] if he stopped whilst portering.”³¹

Guiding is very similar to portering, but sometimes exposes forced laborers to a higher likelihood of torture than portering. While one older man, aged 66, believed that guiding was better than portering because villagers “don’t have to carry for [the military],”³² others reported

²⁴ Villagers generally viewed *loh-ah-bey* as including work on camp and infrastructure projects, with a number of villagers making a distinction between *loh-ah-bey* and being forced to porter and guide, with the latter category being experienced as far worse.

²⁵ ERI Interview #61 (“They usually took men, but if they met a woman outside the village they would take her too, even if she was pregnant”); #68 (“Usually I portered with one other person, and twice I portered with women.”); #75 (“The women went as well as the men. A few years ago, when the fighting was near the village, they sent pregnant women to go also.”) (2004).

²⁶ ERI Interview #60 (2004) (“I heard that women were raped and killed while portering. I personally did not see it, but I heard others talking about it.”)

²⁷ ERI Interview #75 (2004).

²⁸ ERI Interview #77 (2004). *See also* ERI Interview #59 (2004) (“The portering goes in phases; sometimes there is a lot; sometimes there is nothing. This is the same as always.”).

²⁹ ERI Interview #117 (2004).

³⁰ *See* ERI Interviews #78 (with ox carts); #90 (with boats); #91 (with ox carts); #100 (bicycle porters); #101 (bicycle porters); #103 (with ox carts) (2004).

³¹ ERI Interview #65 (2004).

³² ERI Interview #64 (2004).

that guides were regularly beaten if they happened to hesitate or forgot a location, under the assumption that they did not wish to help the military. As one villager explained:

They would also ask people to be guides. If the guide did not know the way, they would torture him. This happened to my husband – they thought he was pretending and they would kick and beat him. This happened about three or four times to him. The military would take someone each time they came through the village. I cannot remember when this last happened, but it was still happening when I left [three months ago].³³

Another villager from Kun Hing Township agrees, stating: “Portering is better than guiding because I sometimes didn’t know the way and was beaten when I guided. They beat me when I was portering too, kicking and hitting me, just less.”³⁴

A 46-year-old male rice farmer illustrated a typical pattern of abuse, and his experience demonstrates the long term effects of forced portering. He told interviewers that he had portered for no money on numerous occasions, sometimes for longer than fifteen days. On one occasion, in April 2003, the Burmese military captured him and fifty others at a local market, and forced him to porter. He explained that he had to carry a very heavy load, which included cooking pots, shoes, sugar, and large artillery shells. Yet, despite the heavy weight, he was given no time to sleep. He reported that he “walked all day and night at one point,” with only “a handful of rice” to sustain his energy. He watched as soldiers beat other porters who were growing increasingly tired, while feeling his own body weaken. After carrying for three days, he was unable to climb another mountain. The soldiers responded quickly with force. He explained that “a soldier hit me with the butt of his rifle on the shoulders and broke them. He knocked me down the mountain, and I was unconscious.” The soldiers then left him for dead. He was eventually found by some Palaung hunters, but his injuries remain. More than one year later, his shoulder is still dislocated and he can no longer carry heavy loads. This incident pushed him to his limits. After being nursed for a month by his fellow villagers, he left for Thailand.³⁵

While this rice farmer survived his injuries, others do not. One 36-year-old widow recounted that portering was responsible for her husband’s 2002 death. Her husband was taken by the military for portering at two o’clock in the morning with no advance notice. Ten soldiers came into the house to seize him, leaving him and his wife no opportunity to refuse. After fifteen days without word from her husband, he returned very ill. When she asked what caused his injuries, he said that the loads he was forced to carry were very heavy, and after days of labor, he could no longer continue. The soldiers kicked and beat him severely. After a few days of coughing up blood, he died.³⁶

The Burmese military continues to demonstrate utter disdain for those they force to porter, placing these non-combatants in unsafe warring environments. At times, porters have been forced to carry ammunition while the soldiers were tracking armed groups in the area. Under

³³ ERI Interview #61 (2004).

³⁴ ERI Interview #68 (2004).

³⁵ ERI Interview #60 (2004).

³⁶ ERI Interview #53 (2004).

these circumstances, they would sometimes continue walking throughout the night. When fighting would break out, the Burmese soldiers showing no interest in protecting the safety of these non-combatants:

We were chasing the Mon splinter group, so we went in the mountains and the jungle, rather than villages. Fighting broke out with the splinter group. I do not know where we went. . . . We were not paid and we had to bring our own food and water. If we ran out, they would give us food. This happened on my trip [in September 2004] – they gave us only a plate of rice twice a day. We could not refuse and no-one dared to – we could be beaten or put in jail if we did. We had to carry about 10-15 viss (16-22 kilograms). . . . In the past, we followed the Mon group and we often met them. . . . [I]f there was fighting or a threat we carried for 2 or 3 days continuously.³⁷

Sometimes the military's disregard for those that were forced to porter went far beyond a lack of concern for their safety. In several accounts, villagers describe being forced to walk ahead of the military, for the purpose of detonating any landmines. One villager describes a dangerous portering mission that he was part of last summer:

In August 2004, they also demanded that thirty people go again to send the rations and materials of the military. We didn't want to go because it was raining and the road was flooded. There was no bridge on the road. We worried that we might lose the materials or that they would be destroyed. Some people went to carry, while some gave money so that they did not have to go. . . . If people went to camp, they were afraid of battles breaking out with the Karen rebels. Whenever there was fighting, the Karen rebels would lay landmines and the military would make villagers go out in front of the line, to be the ones to get hit by the landmines. We are very lucky because even though we were made to walk in front, we never stepped on the landmines, even though some of the soldiers did. It was very good luck. The soldiers were very resentful and suspected that maybe we knew where the landmines were laid.³⁸

A 35-year-old man reported a similar incident from 2004 while guiding. After two soldiers suspected him of being a rebel, he was first beaten. He was hit with a gun, punched in the face, and held underwater while a soldier stood on his back. They then used him and another person as guides for the jungle roads. He explained that he knew he was being used to 'clear' the landmines by walking ahead of [the soldiers].³⁹

Due to the severe conditions suffered by those forced into portering and guiding, many live in fear of suffering similar fates. One woman described her brother-in-law as being so afraid of being taken to porter that he risked his life and ultimately died, while trying to avoid it:

³⁷ ERI Interview #71 (2004).

³⁸ ERI Interview #111 (2004).

³⁹ ERI Interview #109 (2004).

Just before I came [two months ago], I was living in the jungle . . . The military would search for people . . . We were afraid of seeing them. But we did not run away, because they would shoot. That is how my brother-in-law died: he jumped down from the hut, tried to run away and was immediately shot. He was afraid of being forced to porter. He died last year.⁴⁰

Porters and guides were sometimes secured by the military through arbitrary arrests, as was specifically described by five villagers.⁴¹ In two separate interviews from the Ye Township, villagers described the 2004 arrest of their friend when he was working on his farm. One of the villagers said that the arbitrary arrests have made him very fearful when working on a farm or plantation:

Whenever the soldiers need porters to carry their arms, they take people working in the farms. Last month, one of my friends was arrested while he was working on his own plantation. He said that he saw the soldiers coming toward him on the road next to his plantation, but he did not run away. He had already paid them money, so he thought that they would not force him to work. Still, they were coming to take him. When they approached him, they pointed their guns at him and one said, ‘Do not run away. If you run, I will shoot you.’ So, he had no choice but to go with them and porter their bullets to Kawza village. He was with them for about three days. Many people in the village did not know what happened to him. He just disappeared. After three days, he came back wearing very dirty clothes and told me his story. Nobody is safe from becoming a porter, even if you have already paid your porter fee. We will be forced to work for the soldiers as long as they are holding guns.⁴²

Portering and guiding contribute both to economic degeneration and a broader culture of fear and unease. Even when villagers are not physically injured while portering, they are nevertheless forced to remain away from their jobs and farms for weeks. This lack of communication with family, along with a loss of earnings and the constant threats that accompany portering, can cause severe financial and psychological harms. These long expeditions drain the finances of families and frequently leave them without their primary caregiver. Years of widespread forced guiding and portering have left many of the interviewees poor, frightened and utterly exhausted.

1. Prisoner Porters

Prison porters report experiencing even harsher conditions than the villagers who are made to porter. Some of the prisoners interviewed claimed they were wrongly arrested and were not given sufficient due process to prove their innocence. One prisoner stated that “there were many prisoners who were wrongly accused—some had drugs planted on them by the police, then were arrested.”⁴³ Another prisoner was guilty of selling lottery tickets. Regardless of their innocence,

⁴⁰ ERI Interview #063 (2004)(on file with authors).

⁴¹ See ERI Interviews #75, 82, 83, 85, 109 (2004)

⁴² ERI Interview #83 (2004); see also ERI Interview #82 (same account as described by arrested villager’s brother-in-law).

⁴³ ERI Interview #98 (2004).

they must not be treated in inhumane or cruel ways in violation of international norms while in prison.

The prisoners all reported that they tried to avoid prison portering because they had heard that the conditions would be especially severe. All of them explained that prison guards ask for bribes of 50,000 to 60,000 kyat a year to avoid portering. Two prisoners report that even after paying the bribe, they were still forced to porter. One reported, “Now the protection money means nothing. Even after you pay, they can come and get you anytime they want. There are no laws to protect our lives because Burma is ruled by a military dictatorship. Whatever law they want, they can create it.”⁴⁴

Prisoner porters were separated into groups and shackled together by the necks. The ropes that tied their necks together severely inhibited their movements and made it difficult to walk, especially in times of danger. One man describes such a situation: “We walked for four hours until the Karen rebels attacked the soldiers in a quick surprise attack. We didn’t know what to do. Some people ran ahead, some back, and since we were tied together by the neck, it was terrible. It was a very confusing situation. In my group, I was the tallest one, so I accidentally made people fall down. When we fell down, we all agreed that it would be better to die than go on like this.”⁴⁵

Prisoner porters were also given very little food or water during their journeys. When they fell ill as a result of the terrible conditions, they were denied the medicine that was reserved for soldiers. All the prisoners reported that people began to grow weak after a full day of portering. One 21-year-old prisoner who was given three years in prison for selling illegal lottery tickets, reports that some of the 400 prisoners soon became unconscious.⁴⁶ Another 38-year-old prisoner who was also arrested for selling lottery tickets explained that he saw “with my own eyes five people die because they passed out unconscious.”⁴⁷ A third prisoner, a 25-year-old also noted that three of the porters tied to his neck became unconscious and died. He noted that at least one had been in the prison hospital immediately prior to being taken to porter.⁴⁸

Prisoners also were beaten regularly, much more so than non-prisoner porters. All of the prisoners interviewed reported that they were beaten regularly over a three day period, with one explaining that the “soldiers were using sticks to hit people like we were buffaloes.”⁴⁹

If a prisoner grew too weak, he might be killed. The 25-year-old prisoner mentioned above described how the soldiers killed a porter who could not walk anymore. The soldier stabbed the prisoner with a knife and then another soldier threw a stone at his head so that he fell into the valley below.⁵⁰ The 21-year-old prisoner mentioned above also witnessed soldiers killing two prisoners and then using their deaths as a threat to the other porters:

⁴⁴ ERI Interview #99 (2004).

⁴⁵ ERI Interview #97 (2004).

⁴⁶ ERI Interview #98 (2004).

⁴⁷ ERI Interview #97 (2004).

⁴⁸ ERI Interview #96 (2004).

⁴⁹ ERI Interview #97 (2004).

⁵⁰ ERI Interview #96 (2004).

I witnessed soldiers kill two prisoner porters. They soldiers beat them on the head with a stone. The prisoners were shouting and begging for their lives, but eventually their cries disappeared and they died. The soldiers warned us after this happened, “if you don’t carry these things, we will do the same to you.” I was so angry but I couldn’t do anything. The soldiers and officers said to us, “our military can kill you without going to prison, but if you kill someone you will go to prison. There is no prison for us.”⁵¹

This same prisoner explained that soldiers told him why they used stones to kill porters instead of guns. The soldiers said that bullets are only supposed to be used to kill rebels on the frontlines. If a soldier shoots a prisoner with a bullet, he will be fined 250 kyat.⁵²

One prisoner reported that upon arriving at a military camp, a battalion commander asked the soldiers how many porters had died. One soldier said that only thirty porters had died on the way. After counting, there were less than 300 of the original 400 remaining.

Prison portering dehumanizes the prisoners in a much more extreme way than non-prisoner portering. They are killed and beaten with little concern for their families who await their return and need their support. Especially considering that most of the prisoners interviewed were arrested for non-violent crimes, this treatment seems particularly severe. As one prisoner explained in describing how he was beaten, “It was just like herding animals.”⁵³

Under international law prisoners receive protection enshrined in numerous treaties. Article 10(1) of the International Covenant on Civil and Political Rights (ICCPR) states that “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” The Basic Principles for the Treatment of Prisoners of 1990 further explains the rights granted to prisoners under international law. There are basic benchmark rules governing the treatment of prisoners. Burma’s consistent abuse of its prisoners violates many legal codes. The government should be held responsible for not only the forced labor, but also its poor treatment of its prisoners.

2. Forced Sentry Duty

Forced sentry duty is one of the most time-consuming jobs villagers are forced to perform. In Mon areas, where rebel groups are reportedly nearby and active, the military forces villagers to build fences for their villages and guard them, sometimes for days at a time. In the accounts in this report, the practice was found predominantly in Mon areas in Tenasserim Division and Mon State.

One Mon rice farmer with seven children reported that he had to watch “day and night” for twelve days in a row, and then he would get twelve days off. He said that he was not permitted to go to his farm when he was on duty. He was also physically threatened while guarding the

⁵¹ ERI Interview #98 (2004).

⁵² *Id.*

⁵³ ERI Interview #97 (2004).

village. He was told by soldiers, “[If you don’t] see the Mon soldiers come into the village, we will kill you.”⁵⁴

Other interviewees reported similar threats by soldiers. One Mon farmer said he was told that if he let unknown people into the village, he might be arrested or killed. He also explained that he was forced to guard in 24-hour shifts very frequently, as much as once every two days.⁵⁵

This farmer’s predicament of having very little time to earn a living or support his family was shared by other villagers who were interviewed.⁵⁶ One man explained that the “problem in watching the road is that during the nighttime we must watch all night, and then work in the daytime. This is very hard and we feel very sleepy. We don’t have enough time to work on our farms; therefore our income is lower.”⁵⁷ Guarding, then, contributes greatly to the attrition of the population as villagers must work very long hours over extended periods of time with no remuneration for their efforts.

Like other types of forced labor, interviewees report that children and the elderly were often required to guard.⁵⁸ Many villagers reported that they had the option of paying a fee, ranging from 1,500⁵⁹ to 5,000 kyat,⁶⁰ to have other villagers guard in their place, although most are too poor to pay on a regular basis. Refusing to guard is not an option; villagers will have to pay a 10,000 kyat fine, and will be put in stocks until they do.⁶¹ A New Mon State party official, for instance, reported witnessing villagers guarding the Kanbauk-Mygyainglein pipeline in many groups of four. When he asked one group of elderly workers why they were there, they replied, “We are poor, and we could not pay 2,600 kyat to hire someone to come for us.”⁶²

Thus, frequent guarding accelerates the cycle of poverty and attrition. Many villagers are unable to afford to pay others to go in their stead, and must guard the village for full days at a time. These long shifts prevent them from earning money and keep them away from their families, which serves to drive their families deeper into economic depression.

C. FORCED LABOR ON INFRASTRUCTURE PROJECTS AND MILITARY CAMPS

More than half the villagers reported incidents of conscription to build or maintain military camps,⁶³ while even more—almost sixty percent—reported forced labor on infrastructure

⁵⁴ ERI Interview #72 (2004).

⁵⁵ ERI Interview #71 (2004).

⁵⁶ *See, e.g.*, ERI Interview #93 (2004).

⁵⁷ ERI Interview #110 (2004).

⁵⁸ ERI Interview #72 (2004).

⁵⁹ ERI Interview #93 (2004).

⁶⁰ ERI Interview #71 (2004).

⁶¹ *Id.*

⁶² ERI Interview #74 (2004).

⁶³ Fifty-four percent (35 of the 65 people interviewed) reported incidents of work on military camps. *See* ERI Interviews #50, 55, 65, 71 (camp in Kaw Zaw, Ye Township), 72, 73, 75 (camps in Kaw Zaw and Klake Ka Nyein, Ye Township), 77, 79, 80, 87, 92, 93, 100, 101 (Kyauk Gyi Township, Pegu Division), 102, 104, 105, 106, 107, 110, 111, 112, 113, 114, 115, 116 and 118, 122 (2004) (various labor on camps in 2004); *see also* ERI Interviews #52 (2004) (reporting working on a camp when in the town prior to 2004 but not in the small village in 2004); ERI Interview #60 (2004) (left Burma in May 2003 and reported doing camp labor until leaving); ERI Interview #61

projects, primarily roads.⁶⁴ These two forms of forced labor are mainstays in Burma, and the continuation of such methods, particularly in the border regions, remains pervasive: of those interviewed, more than seventy-two percent did one form or the other or both.⁶⁵ Villagers spoke of working on military camps in Mon, Karen, and Shan areas spanning from the Tenasserim Division and Mon State to Pegu Division and Shan State.⁶⁶

The camps provide an almost constant source of work: new camps are built on a regular basis and require constant upkeep. The work involves clearing the land in preparation, carrying building materials (which villagers often have to supply themselves), and building fences and shelters. In addition, interviewees report that they must periodically cut back underbrush. The stories of Kyaw Naing and Daw Khaing (both pseudonyms), two villagers from Kyauk Gyi Township in Pegu Division, capture the full range of work, and the capricious nature of the Burmese military commander's actions. Kyaw Naing, Daw Khaing and their fellow villagers built an entire camp for the military—not once but twice; again, the military build up in the area appears to be linked in part to the presence of armed resistance, in this case that of the Karen National Union (KNU) (*see* Box: You put it in the wrong place! Build it again!).⁶⁷

Villagers also work on roads and other infrastructure projects such as bridges and railways.⁶⁸ They are forced to level the ground for the roads, improve drainage, and repair roads after the rains. One Mon villager from Dae Bong in southern Ye Township recounted, “The rainy season damages the road, and we have to smooth it out after each heavy rain.”⁶⁹ Another typical statement: “I had to clear the bushes along the Ye-Tavoy road.”⁷⁰ While the hours spent working on any one camp or road assignments are frequently less grueling than portering,⁷¹ villagers were often required to work until the assigned tasks were completed. One villager explained that he worked from 7 a.m. to 6 p.m., and that if the work was not finished by 6 p.m., he would have to

(2004) (reported doing camp labor in Kun Hing town several years ago while living there but not doing camp labor in the village where instead there was portering and quartering of troops); ERI Interview #64 (2004) (reporting doing camp labor until leaving Burma in late 2003).

⁶⁴ Fifty-seven percent (37 of the 65 people interviewed) reported doing incidents of forced labor on infrastructure projects. *See* ERI Interviews #50 (Wang Pang-Kun Hing road), 51 (road near Kun Hing), 53 (Nam Zarng-Taunggyi road), 57, 65 (Ga Li-Kun Hing road), 71, 72, 73, 75, 76 (Sai Gyi-Bak Law road), 77 (roads near Han Kam and Ga Law, Ye Township), 78 (Ye-Tavoy road), 79 (Ye-Tavoy road), 80 (Ye-Tavoy road), 81, 82, 83 (Hongam-Kwanthamoi road, Ye Township), 85 (Hongam-Kwanthamoi road, Ye Township), 86 (Ye-Tavoy road), 87 (Ye-Tavoy road), 101, 109, 110, 111, 112, 113, 114, 115, 116, 118 (Kyauk Gyi-Shwe Gin road), 120 (Moulmein-Tavoy road) and 122 (2004) (various road-building in 2004); *see also* ERI Interview #56 (2004) (describing forced labor in 2003 including incident of a pregnant woman at the work site who went into labor); ERI Interview #60 (2004) (left Burma in May 2003 and reported doing work on roads until leaving); ERI Interview #92 (2004) (railway work); ERI Interviews #93 and 94 (2004) (describing work on the Ye-Tavoy road; both incidents of forced labor with the first person receiving a lower than normal wage).

⁶⁵ Seven-two percent (47 of the 65 people interviewed) reported either incidents of forced labor on camps or infrastructure. *See* ERI Interviews #50, 51, 52, 53, 55, 56, 57, 60, 61, 64, 65, 71, 72, 73, 75, 76, 77, 78, 79, 80, 81, 82, 83, 85, 86, 87, 92, 93, 94, 100, 101, 102, 104, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, 116, 118, 120 and 122 (2004).

⁶⁶ *Id.*

⁶⁷ ERI Interviews #100, 101, 102 and 104 (2004).

⁶⁸ *Id.*; *see* ERI Interview #92 (2004) (railway work); ERI Interview #120 (bridge-building).

⁶⁹ ERI Interview #72 (2004).

⁷⁰ ERI Interview #80 (2004).

⁷¹ Villagers commonly reported working for one day or several days and walking from their homes in the morning to the site—often starting around 8 a.m. and working until 5 p.m. with a break for lunch.

BOX 2: “YOU PUT IT IN THE WRONG PLACE! BUILD IT AGAIN!”

The Captain ordered us to build the new camp. . . . Everyday we had to send more than twenty people to build the military camp. Most of them were women because the men were afraid of the soldiers. . . . It took a lot of time to carry the wood and find the bamboo. . . . The camp location was close to a betel nut plantation, so they cut the whole thing down to use wood for the fence. The betel nut trees support our life to earn money for food. When we had to cut them down, we felt something very wrong in our heart. According to our traditions, when some rice falls from the plate onto the ground, and we happen to step on it, we feel so bad. . . .

After cutting down the trees, we had to cut them into pieces for the main posts and cross pieces to make fences. Some people dug bunkers and built huts while others made the fences. . . . Everyday we worked like that and were exhausted. . . .

After three days, they ordered people not to go their farms and gardens, and called more people to come and build the camp. . . . After finishing the camp, there was no betel nut trees around the camp left. They ordered us to cut them all, so they could see clearly out from the camp. . . . Other villages also came to fix and build the military camp. . . .

[Then later in 2004], the strategic commander from Kyauk Gyi town came to our camp building site. He told the battalion commander and other officers, “I gave you a map and showed you the place to build the camp. This is not the place. You have to build it in the other place.” He swore [at] the officers. The strategic commander ordered the battalion commander to destroy all of our work. . . . [We had to] dismantled the whole camp. We had worked over two weeks on this camp, and we were very tired. We tried to complain to the battalion commander, but he said that “we came here for your security so you have to take responsibility, too.”

The next day over 75 villagers . . . went to the camp to take things apart. We took the shingles, wood pieces and started carrying them to the village. We did this for two days. Visitors from other villages . . . were also forced to work by the battalion commander. Whenever they saw villagers in the betel nut gardens, they took them . . . I saw over 150 people carrying materials We were so tired and suffered from working so hard. . . .

Then they showed the village headman where we needed to build the camp again. . . . [O]ur villagers had to continue to work. . . . Visitors who had come to the village were not allowed to return. At the same time they ordered that any villager found outside the village would be shot. During that week, ten bullock carts carried wood to the camp area. . . . More than 60 people cleared the area . . . to build the camp.

When we started clearing the bushes, it looked like we were preparing for some festival or event because everyone worked together. Some were digging, some clearing, some cooking, and some cutting bamboo. Everyone in each household had to help. *See* ERI Interview #100 (2004); *See also* ERI Interview #104 (2004).

stay overnight or for two days until he finished.⁷² Another stressed that forced laborers in her village had to work for many days at a time in late 2004 to pave and tar a road. She explained that “[e]ach time about 30 people went to work. They would be assigned to finish a certain amount of road: this would sometimes take five days or a week. We had to work until we finished.”⁷³

⁷² ERI Interview #57 (2004); *see also* ERI Interview #75 (2004) (reported working from 6 a.m. to 6 p.m.).

⁷³ ERI Interview #73 (2004).

Forced labor on camps and roads is a regular, often routine, burden on the villagers' lives. Most villages have a rotation system that requires each household to send a worker at regular intervals. Some interviewees reported that they were obligated to work on camps and roads so often that they were left with almost no time to work to earn a living on their own. This regular strain forced many to risk moving to Thailand. The story of Nang Hseng—a Shan widow whose husband was killed while portering,⁷⁴ illustrates the severe impacts on people's lives; despite losing her husband several years earlier, it was ultimately forced labor that pushed her to move to Thailand in August 2004: "I could not survive because there was so much forced labor. I went to work as a forced laborer every five days during the five months before I came to Thailand. I just could not survive as a daily laborer any longer."⁷⁵

When working on camps or roads, villagers were not paid and were required to bring their own food, water and tools and often supplies like bamboo. One villager recounted that "if we did not bring water, we did not drink."⁷⁶ Another interviewee mentioned that after hours of building a camp fence in heavy rain with no time to rest, "we were so thirsty."⁷⁷

Due to the regular nature of this heavy labor, families often send women and elderly or young people to fulfill the forced labor requirement, so that the primary caregivers could continue to earn a living for their households. Interviewees mentioned seeing people older than sixty or children as young as ten or eleven working on the camps and roads.⁷⁸ Others saw pregnant women working.⁷⁹ As one 30-year-old woman explained:

I went down to where they are building the military camp. I saw only women working there. Most men are very old or very young. . . . Some people are so old that they could not even walk well but because no one in their family could go, they had to work. . . . I saw some girls aged thirteen, fourteen, or fifteen. The

BOX 3: GIVING BIRTH AT WORK SITES

The combination of constant heavy labor, threatening soldiers, and little time to rest or eat was enough to bring on premature labor for two pregnant women. One Mon farm laborer from the southern Ye Township recounted that his pregnant niece had to go work because her husband had left for Thailand. While she worked next to him, she suddenly lay down and gave birth in late 2003. *See* ERI Interview #109 (2004).

While the soldiers allowed this Mon woman's uncle to carry her home to their village, on a separate occasion, the military was less generous when a woman began to give birth. A Shan rice farmer from Kae See Township in Shan State recounted an incident in 2003, when a woman who was seven months pregnant went into labor while working at the camp. The soldiers refused to allow anyone to help her deliver the baby. Instead, they forced her to give birth alone in a hut near the worksite. The baby did not survive. *See* ERI Interview #77 (2004).

⁷⁴ See Part II.A: Story of Nang Hseng.

⁷⁵ ERI Interview #53 (2004).

⁷⁶ ERI Interview #57 (2004).

⁷⁷ ERI Interview #102 (2004).

⁷⁸ See, e.g., ERI Interviews #75 and 87 (2004).

⁷⁹ See, e.g., ERI Interview #57 (2004).

family doesn't want to come, so they just carry the bamboo. Because only the old people and women came to work, the soldiers yelled at the village leaders. They said "why don't the others come here? Did they do something wrong or are they guilty of something?"⁸⁰

Another 65-year-old farmer described the forced labor he had to bear:

I am old, but I was still forced to work. . . . I was forced to work at the military camp, farm and build fences. The last time I did *loh-ah-bey* was in April 2004. I had to make the land ready . . . near the military camp. . . . Sometimes I worked once or twice a month, from 7 am to 4 pm. There were about two of us working at a time. . . . We had to work for free and could not refuse. Although I am old, my house is in the village, so I still had to go. . . . The youngest people doing work were fifteen. They had to carry firewood, carry the bricks for new buildings.⁸¹

Similar to portering and guarding, interviewees report beatings. One explained that "if you arrived late for *loh-ah-bey*, you were beaten."⁸² Another reported that soldiers would beat and punish workers who were tired:

If someone became tired or took a break, he was kicked and beaten and sometimes the soldiers would not let him go home. They would put him in stocks in the sun for the night, and release him the next morning to continue working. I have seen this happen to people, including some from my village.⁸³

The reports of villagers reconfirm the traditional pattern: the Burmese army is using forced labor to build and maintain its camps in the border areas where Shan, Mon, and Karen communities live. The situation is exacerbated in areas where there is active conflict, and the violations of international norms against forced labor also flourish on roads and other infrastructure projects.

Box 4: Common Myths About Forced Labor

Loh-ah-bey originally meant "voluntarily contributed labor", but the term has been badly misused by the SPDC. The SPDC has repeatedly tried to disguise and justify the continued use of forced labor in Burma.

- **Myth #1:** "Paid labor" is not forced labor because people receive money for the work they do.
- **Myth #2:** "Donated" labor is not forced labor citing the Buddhist concept of giving (*Dhana*), which is an act done by a person of their own free will and out of the goodness of their own heart without an expectation of any reward.
- **Myth #3:** "Helping" (*a-ku-ah-nyi* in Burmese) the military and/or contributing labor and funds to the Village-Tract and Township Peace and Development Councils is an act of patriotism.

"We cannot refuse: Forced labor in Burma". EarthRights International, November 2002.

⁸⁰ ERI Interview #102 (2004).

⁸¹ ERI Interview #55 (2004).

⁸² ERI Interview #109 (2004).

⁸³ ERI Interview #77 (2004).

D. FORCED FARMING AND THE STORY OF LUNG ZAW

In addition to building camps and roads, some of the military battalions also force villagers to farm for them—either on their own land or military-controlled land.⁸⁴ The story of Lung Zaw (a pseudonym to protect his safety), from Woh Lai village near

“They will put the rice in their mouths, but we have to do all the work.”

—Karen villager

Murng Pan in Shan State, epitomizes the enormous pressure forced farming places on villagers and their families. For farming families, their crop is their livelihood and their source of sustenance. One Karen villager in a similar predicament to Lung Zaw’s captures the impact of the lost time: “We all have our own farm work, but we must work on the battalion farm first. We don’t have enough time to work on our own farms.”⁸⁵ Tending the crops is time-consuming, and having to juggle two crops leaves the farmers in a bind; “The paddy loves those who take care of it. Without care, it will be damaged and the quality will be bad.”⁸⁶

Lung Zaw did manage to tend two crops (his own and the military’s), but he reports that the soldiers were not satisfied and began to take rice from the villagers in early 2004:

They [the military] shot our buffalo and chickens. They started recently to take the rice. When we finished the harvest, we saved the rice in the rice barn. They came and took this from the barns. Even though we grew rice, they took more than half. They did not pay us for it, or give us anything for it. This happened around the harvest: January 2004. They took from every house that grew rice—about 24 houses. We had no choice. . . . The military came and took the rice themselves. . . . It was the Battalion #2. . . . [in Murng Pan, the Battalions are know as #1 and #2]. The general’s name was Tin Tung. . . . We did not try and stop them because we were too scared. I saw one person who did not give the rice to the military. They took him to the battalion jail in town and kept him for three months. . . . His name was Ku Na. I believe that this happened in every village in the area; this is what everyone says.⁸⁷

Lung Zaw is married with one child. He and his family arrived in Thailand in April 2004, after several years of forced farming in his village prior to the commencement of rice confiscation.

⁸⁴ Fifteen percent (ten of the 65 people interviewed) reported being forced to farm for the military. *See* ERI Interviews #53 (2004) (yellow bean farms of the military in Nam Zarng, Shan State for battalion #66); ERI Interview #54 (2004) (bean and corn farms of villager in Kun Hing, Shan State); ERI Interview #65 (2004) (corn farms in Ga Li village in Gaeng Kham, Shan State); ERI Interview #69 (2004) (rice farms of the military and villagers in Woh Lai, Murng Pan, Shan State for General Tun Ting, Murng Pan Battalion #2); ERI Interview #100 (betel nut farms of villagers in Kyauk Gyi, Pegu Division); ERI Interviews #111, 112, 114, 115 and 116 (2004) (military rice, bean, and soy bean farms in Kyauk Gyi, Pegu Division).

⁸⁵ ERI Interview #111 (2004).

⁸⁶ ERI Interview #112 (2004).

⁸⁷ ERI Interview #69 (2004).

The military expropriated farms from the people living in the area or took land when villagers fled; Lung Zaw describes, “Mostly the military are farming here. They have had these farms for about two or three years [since the] farm owners came to Thailand.”⁸⁸

Lung Zaw worked on military farms, but some villagers in Burma report doing forced labor on their own confiscated land. One Shan woman from Kun Hing described how soldiers confiscated her land and that of others in the village. The military then forced her to plant corn and beans, which both failed to grow. After both crops failed, “then, the soldiers gave my land back to me,” she said.⁸⁹

Like in camp and road building, villagers must bring their own tools and food, and are not paid for their labor.⁹⁰ Additionally, soldiers force people of a wide age-range to work, including children.⁹¹ Interviewees also reported seeing pregnant women laboring on the fields.⁹²

Forced farming puts particular strains on villagers, taking them away from their own farms at critical times each year: “The rotation is so frequent sometimes that we don’t have time to do our own work and farm. If we don’t care for our fields, the rice will die.”⁹³ Lung Zaw reports how the work took its toll over two seasons. He stayed as long as he could, but it became unbearable in the end:

The military made people work on the farms. . . . The last time I went was in the harvest season—November or December 2003. . . . I have had to work for two seasons, from planting through to the harvest. I worked for about one month until finished. I had to work my own farm at the same time. I would work one day on my farm, one day on the military’s. . . . They gave us nothing while we worked. I had nothing left so I came to Thailand.⁹⁴

⁸⁸ ERI Interview #69 (2004).

⁸⁹ ERI Interview #54 (2004).

⁹⁰ See, e.g., ERI Interview #53 (2004) (“We brought our own tools. We were not paid; it was forced labor.”); ERI Interview #54 (2004) (“We could not refuse, and we were not paid.”).

⁹¹ See, e.g., ERI Interview #69 (2004) (workers ranging in age from fifteen to 50); ERI Interview #54 (2004) (workers ranging in age from thirteen to 40).

⁹² See, e.g., ERI Interview #54 (2004) (“Both men and women, including pregnant ones, worked on the farm. The poorest people had to go the most because they could not pay to avoid it. This included poor pregnant women. Some were visibly pregnant.”).

⁹³ ERI Interview #112 (2004).

⁹⁴ ERI Interview #69 (2004); see also Story of Ba Nong (ERI Interview #65 (2004) (describing work on corn farms every year for six years)); ERI Interview #100 (2004) (“The captain ordered the village headman to tell the betel nut owners not to go to their plantations. Instead, the sergeant and the soldiers asked . . . daily workers to climb the betel nut trees and harvest [the crops]. They had to peel it, dry it, and sell it in another village, and then given eh money to the soldiers. They did this for one week and the plantation owners could not do anything to complain.”); ERI Interview #111 (2004) (“Whenever it is time to sow, harvest and thresh the paddy, the neighboring villages must go and work for them.”); ERI Interview #112 (2004) (“Every month, each battalion forces the villagers to work on their farm at their camps. . . . When I don’t spend time farming, I have to work hard until dark to make up the lost time. . . . On the one side, I must provide food for my parents, and on the other side, I have to be responsible to the military, so it is very difficult. Sometimes when I come back late [from forced labor], I would like to go to the farm in the evening, but I am afraid to go in the night time. My farm owner is very nice and understands the situation. If he didn’t understand, we wouldn’t have any food.”); ERI Interview #116 (2004) (“We feed them and provide for them, but they don’t care about us.”).

Lung Zaw's story is a model example of slow attrition. While not forced to work to exhaustion on a day-to-day basis, the ever-mounting struggle of enduring the required labor placed him and his family in severe straits. Without food for his family and financially destitute, Thailand became the only option.

E. SEXUAL SLAVERY AND OTHER CRIMES AGAINST WOMEN

Women are made to experience the horrors of forced labor in different ways to men.⁹⁵ As the males of the household are often the primary wage-earners, when there is routine forced labor to be done, it is typically the women who are sent to perform the labor, along with children and the elderly; the men of the family are seen as indispensable to improvement of the family's financial state.⁹⁶ The frequency with which women are sent to perform forced labor makes them especially vulnerable to other acts of violence and sexual crimes.

Interviewees reported numerous acts of sexual violence committed by soldiers against women and children. Both women and young girls were forced into sexual servitude for many days at a time, and were sometimes gang raped by groups of soldiers.

One 55-year-old woman from Gaeng Kham Township reported that women were regularly "taken by the military for sexual pleasure and returned later, usually after

BOX 5: THE KILLING OF NAI KYAW AUNG

After the water festival in April 2004, two women were walking with Nai Kyaw Aung to the pagoda on the east side of Hongam, where they had to pass by a military base. When the soldiers saw them, they verbally harassed the two women with dirty, inappropriate words. The boy tried to protect the women, and he reacted to the soldiers. He told the women to run away, but some of the soldiers understood the Mon language and so knew what he had said. Two men, one a sergeant, and one without a rank, beat the boy. While they beat him, the women escaped. This made the soldiers even angrier, so they took the boy to the rice field and shot him to death. Villagers said they know this because they could not find the remains of his jaw and teeth. This boy was about eighteen or nineteen years old, and he lived with his grandparents. His parents had already passed away. Many people in our village were so upset about this, but nobody could do anything. We could not say anything. ERI Interview #83 (2004)

⁹⁵ Incidents of rape, sexual violence and sexual servitude which occurred in the past year were reported by eight interviewees of the 65 interviewed, slightly over 12%. See ERI Interviews #52, 61, 63, 69, 72, 73, 85, 118 (2004). This number does not account for those interviews where women felt fearful or restricted in their movements due to military presence and the potential for sexual violence, or those interviews where past rapes and episodes of sexual servitude were reported (See ERI Interviews #56, 65, 77, 113 (2004)). Other interviewees spoke of women working on forced labor projects, especially camp building and infrastructure projects, more frequently than men. See ERI Interviews #100, 102, 104, 106, 110, 114 (2004).

⁹⁶ See ERI Interviews #100, 102, 104, 106, 110, 114 (2004).

about five days. They were raped by groups of soldiers who took them.” She explains that she “heard about five girls being taken from the village. They were all between eleven and fifteen years old.” The interviewee concludes that this news made all the villagers, especially the women, “very afraid.”⁹⁷

Sometimes this sexual slavery resulted in death. A 55-year-old woman from the Kun Hing township reports that after her village was burned down by soldiers in 1996, she fled with her family into the jungle. In 2002, soldiers found them, and her 15-year-old niece was taken away. She described her niece’s forced sexual servitude as a common occurrence for women, and noted that such crimes would often result in the woman’s death. She explains:

It is not safe for the women in the jungle. When the military came, they sometimes followed the women and then took them for sexual purposes. The whole group – sometimes as many as a hundred soldiers – would take a woman to be their “wife”. She would have to sleep with them, wash their clothes, clean. The women were sometimes allowed to come home to die. I think that some of the women who did not return died. They died because they were exhausted, sexually exhausted.

Unfortunately, her niece suffered a similar fate. She died only two days after her experience:

Only one woman I knew who was taken from our group later came back to die. Her name was Nang Jing; she was my niece. She was taken for 15 days, about two years ago. We found her at Ko Lam, where they left her in a military camp, about one night’s walk from my hut. She was too weak to talk about what happened to her. The people who found her in the camp tried to search for her relatives. My brother-in-law carried her back to her hut. She was only 15 and had never been married. She died two days after she came back. We heard about what happened from other people, when we were trying to find information about where she was. I cannot remember which soldiers took her; there were so many of them.⁹⁸

There is no doubt that such extreme, but common, acts of sexual assault fall under international legal forced labor definitions.⁹⁹ These acts do not just destroy the lives of the victims and their families, but spread a constant fear among villagers that they will suffer a similar fate. This fear certainly intensifies their attrition, along with the shame for the victim and her family, which often accompanies the sexual violence.

⁹⁷ ERI Interview #065 (2004)(on file with authors).

⁹⁸ ERI Interview #63 (2004).

⁹⁹ ILO, "Forced Labour in Myanmar (Burma)", Report of the Commission of Inquiry, July 1998

Other acts of rape, while not necessarily considered forced labor, also contribute heavily to the fear villagers feel and the general strain on their lives. Many interviewees reported acts of rape, which left them feeling unsafe and helpless. One man from Murng Pan Township said: “Sometimes the military raped women. They raped a woman called Nang Sai, who is twenty years old. She was raped by about 30 military from Battalion #2. She was barely conscious and could not stand up afterwards. This happened two months before I came to Thailand in [April 2004]. The village is quite small, and we all knew about this.”¹⁰⁰ The fact that none of the soldiers were ever punished heightens the sense of despair.¹⁰¹

Because many of the interviewees came from small villages, news of sexual assaults spreads quickly and leads everyone to feel tense. One villager from Kyuak Gyi Township in the Pegu Division described how his village changed dramatically after an attempted rape:

[O]n November 25, 2004 at 10 p.m. a National Intelligence Bureau soldier came to the house of [Redacted] aged 18 He grabbed her breasts and neck. She shouted until the soldier ran away. The parents are now very afraid. In the morning they told the village headman. The village headman said that he could not do anything. Now the villagers feel that they don’t live in a secure and safe environment. . . . Whenever women go to the garden or to their workplace, they go with men now. We don’t allow our daughters and sisters to go farming alone anymore. We don’t feel safe in our own village.¹⁰²

That this farmer knew the exact time and date of the incident is evidence of the enormous impact that such sexual assaults have on villagers’ psyches.

In some villages, the threat of sexual violence has prevented women from working on the fields at all. Their resulting economic loss has forced them to flee to Thailand. One 17-year-old girl from Lai Ka Township reported that in a nearby village in 2003, the military raped many women and burned them with firewood. Her village reacted quickly to this news: “After that the women went in groups to farm.” But this measure did not calm her fears. She left for Thailand a year after these rapes because her father had grown too old and because the rest of the nearby family was composed entirely of women who were “afraid to travel to the farm, which was a half-hour away, because of the military.”¹⁰³

It appears that girls and women are sometimes taken as a way of indirectly punishing certain men to whom the military object. In Ye Township, for instance one woman described the punishment inflicted on a girl who was the girlfriend of one of the rebels:

The military took her away, and no one knew where she was when I left [July 2004]. The girl was taken in the rainy season of this year. Her relatives have spent a lot of money searching for her, but they did not find her. She was taken by Burman soldiers; many villagers saw the soldiers call her and then take her

¹⁰⁰ ERI Interview #69 (2004).

¹⁰¹ See ERI Interview #56 (2004).

¹⁰² ERI Interview #118 (2004)(on file with authors).

¹⁰³ ERI Interview #52 (2004)(on file with authors).

away in a car. I heard news that she was taken to Moulmein. The girl was one of my students, and I was also looking for her. Her name is Gyi Myint.¹⁰⁴

Sexual servitude, rapes and disappearances, like forced labor and other violent military acts, contribute to a culture of fear that causes unending tension and attrition.

F. EXPROPRIATIONS AND FORCED LABOR FEES

In addition to forced physical labor, the military expropriated food, land and other resources from villagers. This sometimes involved taking produce, money and food from villagers at random, but was often more systematic, with villagers being forced to make payments depending on their perceived financial situation. Considering that villagers already experience financial loss for the many hours of forced labor they were required to do, these additional expropriations of their remaining personal earnings cause severe financial distress.

1. Expropriation of Food and Crops

The taking of food, crops, goods, and even land was a common military practice that was identified by many villagers.¹⁰⁵ The expropriations were sometimes quite systematic, such as the routine demands described by a villager from Tenasserim Division: “We had to give them eighteen baskets of rice each month. Our village section leaders were ordered to collect this from every household. One basket of rice weighs about 32 kilograms and is worth 8,000 kyat.”¹⁰⁶ At other times, the expropriations were exacted at the whim of the military: “They ask for fish for their camp. Sometimes we have to make dried fish and fish paste for them. If we don’t do this, we must buy it from outside the village and it is very expensive.”¹⁰⁷ The demands were often explicit, but were sometimes implicit, as in the case of villagers who were forced to work on military camps and roads. These villagers were expected to bring with them all the tools and supplies necessary to accomplish the tasks; when fences and camps needed to be built, villagers provided the bamboo and nails.

There were occasional instances of people being forced to prepare food for military staying in their villages. One 40-year-old rice farmer reported that “[w]henever [the military] came, about 30 to 40 soldiers made us cook hens and other food, without paying us. They came almost every

¹⁰⁴ ERI Interview #73

¹⁰⁵ Forty-eight percent (31 out of the 65 people interviewed) identified recent expropriations by the military. *See* ERI Interviews #52, 56, 61, 65, 66, 68, 69, 72, 73, 54, 72, 78, 81, 82, 83, 84, 100, 101, 104, 105, 106, 107, 109, 110, 111, 112, 113, 115, 116, 121 and 122 (2004). This figure does not include interviews where villagers were forced to pay money in order to secure food, crops, or other goods for the military, but only those interviews where items were directly seized by the military. Such demands are detailed in a subsequent section on extortion. *See* ERI Interviews #100 and 106 (2004) (fees demanded in order to purchase food for the military). This figure also excludes those interviews where villagers were required to bring tools and to provide building supplies for work on camp and infrastructure projects (a common occurrence), except where other expropriations were also demanded. In addition, many of these interviewees mention more than one kind of expropriation.

¹⁰⁶ ERI Interview #82 (2004); *see also* ERI Interview #83 (2004).

¹⁰⁷ ERI Interview #107 (2004).

day, so it was a lot of food. They just took enough for the day. And they would stay in the houses almost every night.”¹⁰⁸

The demands for food were made for a number of reasons, but it was sometimes clear that the military was expropriating food for the purpose of controlling the amount of food the villagers could possess, ostensibly to limit the food supply available to insurgent groups. This was sometimes part of the “Four Cuts” program (cutting food, funds, intelligence, and recruits), a strategic military policy. In this respect, expropriations of food and land were sometimes coupled with restrictions on villagers’ access to their farms and plantations.¹⁰⁹ A 35-year-old married rice farmer, describing the military’s fear of insurgent groups and the affect it had on the villagers’ food supply, stated that the military “burned a hut full of harvested rice because they thought the villagers would give it to the SSA [Shan State Army]. The military would try to control the amount of rice the villagers had so they didn’t have extra, and the soldiers would take the rest. I hid rice in the jungle but they found it.”¹¹⁰ This villager went on to explain that he came to Thailand as a result of the many expropriations and destruction of his harvest by the military. Lung Zaw, in his story, also spoke of the Burmese military shot his buffalo and chickens, and took “more than half” of his rice harvest in January 2004.¹¹¹

The expropriations of the military were not limited to food, and could sometimes be very extensive. One villager from Lai Ka Township reported that the military came to his village in early 2004 and took almost everything:

Once, about six months ago, the military came to our village and took the livestock. They asked for everything: animals, clothing, money, tools. They beat anyone who did not provide these things. Seven months ago they broke someone’s head, and he had to be taken to hospital. I did not know him, because he had just moved to the village, but I saw him right after he was beaten, and he was bleeding.¹¹²

In other cases, food and crops were seized more covertly by the military. In areas where free movement was restricted, the military would periodically allow people to go to their farms to harvest. However, when they tried to return to collect the harvest, they were prevented from doing so. One 38-year-old farmer from Southern Ye Township reported that the military would allow her to go to her farm to pick the ripe betel nuts and leave them to dry at the plantation. But then, the soldiers would prevent her from returning to her farm and would take all the betel nut. She explains that this occurred constantly, “almost every day.” Because this expropriation left her without a job in her village, she came to search for employment in Thailand.¹¹³

While the interviewees above were permitted to keep their farms, other villagers reported that the soldiers seized entire farms without providing any compensation. One interviewee said that the

¹⁰⁸ ERI Interview #66 (2004).

¹⁰⁹ For further mentions of villagers’ restrictions on accessing farms, plantations, and access to food supplies, *See* ERI Interviews #82, 83, 85, 90, 100, 104, 105, 109 and 115 (2004).

¹¹⁰ ERI Interview #68 (2004).

¹¹¹ ERI Interview #69 (2004); *see also* Part II.D. Forced Farming and the Story of Lung Zaw.

¹¹² ERI Interview #52 (2004).

¹¹³ ERI Interview #73 (2004).

battalion near his village confiscated “1,000 acres of land and the villagers are not allowed to work there anymore.”¹¹⁴ Another explained that he saw the military confiscate many acres of farmland and cut down close to sixty privately-owned betel nut trees and an entire bamboo garden in Kyauk Gyi Township.¹¹⁵

A third interviewee from Thanpyuzayat Township described multiple acts of confiscation:

Military battalions have confiscated a lot of farms in [my] area, such as in a village called Kwanthsamoie . . . and in the Daydain area. There are a lot of rubber plantations in these areas. . . . These rubber plantations are worth at least 50,000-100,000 kyat per acre. About 50 acres of rubber plantations were confiscated by the military. They confiscated these plantations without giving any compensation to the plantation owners.¹¹⁶

He then described in detail the events leading to the confiscation of his friend’s rubber plantation in the dry season of 2004. Nai Hat Sein, whose name has been changed for his protection, is about 35-years old and is from Thanpyuzayat in Mon State. His trouble with the military began immediately after they arrived in the area:

The military battalion arrived in this area during last year’s [2003] dry season. When they first arrived, they were based in the rubber plantations. While they were staying there, they were uneasy with the rubber plantation owners. First of all, the soldiers knew nothing about the usefulness and value of rubber. When the soldiers realized that rubber could be sold in the market, many of their wives stole the rubber gum, dried it, and then sold it, without using the rubber machine. At first, the plantation owners did not realize what had happened, and just thought they had lost the gum. When they realized that one of the soldier’s wives was stealing the gum, Nai Hat Sein yelled and scolded her. She ran away and brought her husband back with her, and pointed at Nai Hat Sein. The soldiers beat him and confiscated those plantations.¹¹⁷

The beating resulted in Nai Hat Sein’s hospitalization. While at the hospital, Nai Hat Sein told his friend of the pain he felt when he saw his rubber trees being cut down. When he was discharged, he left his village and country to work illegally in Malaysia:

He left the village at the beginning of this rainy season [2004]. He left his wife and two children behind in the village. Before the military confiscated his plantation, their family life was very peaceful and happy. Even though they were not rich, they were living well with their rubber plantation. Now, they cannot even have dinner together. His wife and children miss him very much.

¹¹⁴ ERI Interview #103 (2004).

¹¹⁵ ERI Interview #106 (2004).

¹¹⁶ ERI Interview #84 (2004).

¹¹⁷ Id.

From the stories above, one can see how expropriations place a heavy burden on villagers and ultimately lead to villager attrition.

2. Forced Labor Fees and Arbitrary Taxes

In addition to expropriations, many of those interviewed described how the military has regularly demanded that fees and payments be made to them. These fees were demanded on any number of different pretenses. Villagers were sometimes required to pay fees to the military as a substitute for performing forced labor. In one village, each household has been required to pay a porter's fee of 500 kyat per month.¹¹⁸ In August 2004, villagers from another village were required to pay guarding fees. One villager reports:

Before, there was one villager who organized the village hut guards. Now that person only collects money and brings it to the military camp's roadside security officer. The soldiers said now they will watch the road, but they just take the money and they don't watch the road. . . . Every day the village organizer has to collect the money and deliver it in on time. If he is late, a soldier will come to the village and ask many questions. The soldier will say 'where is my money?' as if we had a debt to him.¹¹⁹

Although such fees are purportedly demanded in lieu of forced labor, payment of these fees does not generally exempt villagers from these additional demands. Villagers related that although certain fees were explicitly demanded as substitution for forced labor, they may still be required to work for the military all the same. As one villager explained:

Each month we are required to pay 5000 kyat for the civilian military unit stationed in our village. The village section leader collects the money every month. He says, 'This is not only money for the civilian militia, but also for porters and food for the soldiers who come to our village.' However, the village head cannot guarantee that while we pay this money that we are exempt from being forced to porter and work for the soldiers.¹²⁰

Some villagers were required to pay fees to the military, but were never given any explanation as to why the payments were demanded, or who they were being used to benefit. In one village where most people earn their income from farming the betel nut, villagers are made to pay a "betel nut fee" each year. As this villager explained, "This betel nut fee goes to the town administration. When we ask the village tract chairperson about where this fee goes, he says sometimes he has to give it to Burmese intelligence and sometimes the military. Who is the leader? Is it the military, the intelligence, or the administration? I don't know."¹²¹

¹¹⁸ ERI Interview #109 (2004).

¹¹⁹ ERI Interview #113 (2004); *see also* ERI Interview #87 (2004) (sentry fees of 50,000 kyat per month were required from the village).

¹²⁰ ERI Interview #86 (2004).

¹²¹ ERI Interview #102 (2004).

Payments may be exacted for any number of arbitrary reasons. One villager reports being required to pay a “tea fee” to meet with the village head man; other villagers had to pay fees to be allowed to fish in their fishponds.¹²² Sometimes these fees were set amounts, but on other occasions, villagers were required to make payment to the military on the basis of their perceived ability to pay. Two villagers from Mon State reported that the condition of their house was used to establish the amount of the payment that would be demanded. As one whose last payment was made in September 2004 explains, “They collect the money according to the appearance of our house. If our house looks good we have to pay more, and if our house is bad, we have to pay less. In my case, my house is not good enough that they are able ask for any amount they want. I still had to pay them 10,000 kyat.”¹²³

At other times, villagers were required to pay fees that would presumably be used in order to furnish the village with some benefit. Sometimes villagers never saw their fees put to their purported use. At other times, villagers did not want the “benefit” for which they were required to pay. For example, two villagers recounted that in their villages, some people were required to pay money to maintain their homes with zinc roofs to meet government standards. One villager explains that houses near the main road were required to be kept in good condition, with a zinc roof and cement walls. She explains: “If we lived near the main road but could not afford to fix our house according to what the government demands, then we would be forced to move our house. Some villagers who live near the main road have borrowed money to maintain their house. For the cement, they have paid at least 200-300,000 kyat. The zinc roof is also very expensive.” These modifications were not made for the benefit of the villagers who lived in the homes. The reason that houses were built in the cement style was that “the village head has a brick business, and he sells the bricks to villagers. He often forced and threatened the villagers to build their houses with bricks.”¹²⁴

At least six villagers reported being forced to pay fees to the town administration or township for entertainment that they did not wish to contribute to or support.¹²⁵ These events included a Karen New Year celebration, religious festivals, and sporting or singing competitions. In a 2003 incident, one villager describes being forced to buy tickets to competitions even after they had all finished.¹²⁶ While this creates a financial burden for all villagers involved, it can be a particularly onerous situation for those villagers who practice religions different to the ones they are forced to support. In one instance, Christian and animist villagers were forced to pay money to fund Buddhist religious ceremonies and to purchase pictures of the Buddha. The township never used the money to celebrate Christian or animist events.¹²⁷ Another Christian villager comments:

Whenever there is a festival or ceremony in the town, we have to buy the tickets. For example, for the boat races on the Kyauk Kyi River, each villager has to buy tickets for 500 kyat each. It doesn't matter if you go to the race or not. Other

¹²² ERI Interview #89 (2004) (tea fee); ERI Interview #107 (2004) (fishpond fee).

¹²³ ERI Interview #119 (2004); *see also* ERI Interview #120 (2004).

¹²⁴ ERI Interview #89 (2004).

¹²⁵ ERI Interviews #89, 94, 107, 113, 114 and 118 (2004).

¹²⁶ ERI Interview #113 (2004).

¹²⁷ ERI Interview #113 (2004).

villages also have to buy the tickets. We are Christian; we don't want to spend our money like that. Some of the festivals are religious ceremonies so we do not feel good to give money for that. It is especially bad for events at the pagodas. There are also township sports competitions and boxing matches that we must support. Each village must buy a certain amount of tickets. The headmen must be responsible for collecting the ticket money. There are other things like calendars and posters and magazines that we must buy from the township for their fund. Sometimes we are not interested at all, but we have to buy."¹²⁸

Another villager reported that in December 2004, collections were being demanded for an electricity supply that will soon be provided to the village. Villagers were unanimously against the plan, in part because the supply of electricity from Thanbyuzayat that they were being made to purchase was notoriously unstable. Nevertheless, villagers were told to make payments or, alternatively, to leave the village.¹²⁹

Being told to leave the village if unable to make payments was a common experience reflected upon by those we interviewed. Refusing payment of these fees was simply not an option for villagers. Often, if a person refused to pay fees, they were threatened with jail or beatings, until they relented. One interviewee explained how his village was forced to purchase horses for the military or would face penalties:

The village had to pay for horses. I had to pay 100 kyat. They collected this amount from each house. They bought many horses. We had to pay this fee every month. The village head collected the money. The village head threatened that if you did not pay, you would be arrested and taken to jail. Everyone was too scared to refuse. The horses were kept in Ban Nah camp. The village bought them, but the military owned them. They have been doing this now for five or six years.¹³⁰

While many fees were paid directly to the military and township, in a separate fee structure, villagers sometimes had the opportunity to pay another villager to go do forced labor rather than go themselves. Villagers would be threatened with imprisonment if they could not go to do forced labor and were unable to pay for a replacement. Securing a replacement is an expensive practice and prices seem to be rising throughout Burma. Of those we interviewed, only one person, a trader, could afford to pay someone to work for him regularly. This trader explained what would happen if he refused to pay:

We could not refuse [to do forced labor]: we would be arrested and we would have to pay a fine. The amount of the fine would depend on your relationship with the soldiers and the village head, but it was usually between 5,000 and 10,000 kyat. This is more expensive than it used to be. You paid the money directly to the soldiers. If you couldn't pay, they would arrest and detain you. This was common knowledge. You can hire other people to work in your place

¹²⁸ ERI Interview #118 (2004).

¹²⁹ ERI Interview #121 (2004).

¹³⁰ ERI Interview #67 (2004).

for about 2,000 kyat. This price is up from the past. I usually hire people to replace me so that I can go and work. Last month I paid for people to go three times.¹³¹

Other interviewees report that refusal or inability to pay resulted in more extensive forced labor, rather than detention. One 45-year-old farm laborer explained that if he did not pay a fee for a substitute, he would have to porter. The fine was 2,000 kyat, a hefty sum for a poor farm laborer. He said that in February 2004 he was away and his wife was ill, and so no one in his family paid the military. When he returned, he was promptly punished by having to porter for three days in the jungle, as the military was looking for rebels. He explains that he was given so little to eat that “we were very hungry and we picked leaves to eat.”¹³² In sum, the Burmese authorities’ widespread demands for fees are one additional violation of international obligations to end forced labor; the form of the violation places additional strains on the population and drives more people to poverty and to flee to Thailand.

G. AWARENESS OF ORDER NO. 1/99 AND FAULTY COMPLAINT MECHANISMS

As of late 2004, most villagers remained unaware of Order No. 1/99, and few knew that forced labor was illegal.¹³³ Of the almost 50 villagers explicitly asked whether they had heard that forced labor was illegal, nearly 80% had no knowledge of either the Order or that forced labor was illegal in Burma.¹³⁴ A typical statement by villagers was, “I have never heard or seen the statement of 1/99, and I have not heard that forced labor would stop in Burma.”¹³⁵ Only three villagers stated that they had seen or knew of Order 1/99, while seven additional villagers knew nothing of the Order itself, but had heard that forced labor was supposed to be illegal or would stop.

Some villagers had been told by the military that forced labor was vital to the development of the village, and therefore in the villagers’ interests, but even where villagers knew that this argument was false, they were still unable to avoid forced labor.

There was propaganda that *loh-ah-bey* was good for the village and that it was used for development. This was not the case—forced labor and portering are getting worse and worse. I have heard some people say we do not have to do *loh-ah-bey* but practically they still have to.¹³⁶

¹³¹ ERI Interview #75 (2004).

¹³² ERI Interview #77 (2004); *see also* ERI Interview #91 (2004) (seven days portering as punishment).

¹³³ *See also* ERI Interviews #50, 51, 52, 53, 54, 56, 58, 59, 60, 61, 62, 63, 65, 67, 68, 69, 71, 73, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 91, 92, 93, 94 and 122 (2004). Only three people that we spoke with actually had heard of Order 1/99. *See* ERI Interviews #70, 74 and 101 (2004). Seven people did not know specifically about Order No. 1/99 but had heard that forced labor was supposed to be illegal. *See* ERI Interviews #55, 57, 64, 73, 119, 120 and 121 (2004). No one specifically knew of a way to complain formally about forced labor. Only three people spoke of complaining or negotiating: two resulted in threats or further punishment. *See* ERI Interviews #74 and 75 (2004). One resulted in a negotiated reduction of in the number of forced laborers that had to go from his village. *See* ERI Interview #55 (2004).

¹³⁴ *Id.*

¹³⁵ ERI Interview #89 (2004).

¹³⁶ ERI Interview #71 (2004).

Another villager remembers a time when forced labor was promoted as “volunteer work” but reports that it is now being upheld as “unity work”: “Now the village head and section leaders are very smart. Whenever they need forced labor in the village or work in some place, they said that it was not forced labor: it was a job to help each other or ‘unity work.’ They never use the words ‘volunteer work’ any more.”¹³⁷

Villagers overwhelmingly viewed attempts to complain as likely to result in violence or retribution.

I have heard that it is not legal to demand forced labor, but this has not made any difference. I do not know how it would be possible to complain about *loh-ah-bey*. If we complained to the military, they would definitely arrest us.¹³⁸

Only three people spoke of registering complaints or negotiating with the military about being made to do forced labor, and each of these complaints was made by leaders. There were no incidents reported of regular villagers initiating negotiations or making complaints directly to the soldiers. Out of these three incidents, a positive outcome was reported on only one occasion, when a village headman negotiated with the military to reduce the amount of labor the villagers were forced to contribute:

When the military sends an order for forced labor, the village head always discusses it with the group and tells them it is a type of oppression and unfair. The headman speaks to the military and negotiates for fewer people to be sent, say two people instead of ten. I don’t know of any other ways to complain about the forced labor. There is no more portering because the headman, who is Indian, is quite strong and the military do not want to oppose him.¹³⁹

On the other two occasions when villagers complained, the complaints were disregarded. For one headman, the complaint resulted in further punishment:

One of the leaders in my village told us that he went to complain to the military that the fees were too high, but they said it was the order and made him do double work as punishment.¹⁴⁰

An official from the Mon ceasefire group asked a military intelligence (MI) officer why Order 1/99 was not being enforced, and why forced labor continued. He reported:

I’ve heard of Order 1/99 on the radio but the situation has not changed. I asked MI about forced labor, and why it was continuing if there was Order No. 1/99. The MI replied, ‘We will not ask you since you are part of the leadership of the

¹³⁷ ERI Interview #92; See also ERI Interview #93.

¹³⁸ ERI Interview #57 (2004).

¹³⁹ ERI Interview #55 (2004).

¹⁴⁰ ERI Interview #75 (2004).

Mon ceasefire group. Instead, we will only ask the villagers, so it is not your problem.’ Also, he said Order 1/99 doesn’t apply to ceasefire areas.

At some point in early 2004, this same leader described an episode when a Burmese strategic commander demanded that he transport soldiers:

[I] replied that there was not supposed to be forced labor in Burma. The Strategic Commander pulled out his gun—a pistol—and pointed it at me, and said, “will you go or not?” This was on the way to Thabuyazat from the border near the village of Grarapbaw. When I got back, a friend from another Karen told me he saw me in my truck. He had planned to attack the Burmese military at that time, but when he saw me, he decided against it because he knew me.

It is clear then, that not only is forced labor continuing and complaint mechanisms largely unavailable, especially in armed conflict areas, but also that the general standard of living is degenerating. The process of attrition leaves people economically ruined and often without support structures. This is no less a violation of international humanitarian standards than the more direct violation occasioned by forced labor.

H. THE THREAT TO THE FABRIC OF SOCIETY

There are many ways in which constant military presence destabilizes the lives of villagers and tears villages apart. Many villagers faced severe restrictions on their movements and were not permitted to leave their villages to visit friends, or to work on their farms and plantations. The constant threats to the lives of the village leaders made it impossible for villages to comprise a united front and made villagers especially susceptible to more harm from the military.

**“When they said stop, we had to stop, and when they said go, we had to go. Because of their guns, we have to be their slaves.”
—Tenasserim villager**

The environmental destruction that was brought about by the military’s presence ensured that the future growth of villages was also jeopardized. Finally, the military’s disrespect and disregard for the cultural and societal norms of villagers also made villages especially vulnerable and unstable. All of these problems occasioned by military presence served to facilitate the process of attrition for those that we interviewed.

1. Restrictions on Access to Farms and Impacts on Livelihoods

Forty percent of villagers report extreme hardships that were brought about by severe restrictions on access to their farms, plantations, or fishponds.¹⁴¹ In areas where the military fears the

¹⁴¹ 26 of the 65 villagers interviewed spoke of such restrictions. See ERI Interviews #51, 52, 56, 58, 59, 61, 65, 68, 71, 72, 73, 75, 82, 83, 85, 90, 100, 104, 105, 109, 113, 114, 115, 116, 118 and 122 (2004).

presence of rebel groups, severe restrictions are imposed on villagers' movements to hinder the possibility that villagers will assist or aid the insurgents. As one villager explains:

They did not want the villagers to go out of the village, and did not want them to work. They were afraid the villagers would go and meet the SSA [Shan State Army], or give them food. They frequently asked for news about the Shan soldiers. My farm was about three hours walk from the village. When the military were in the village, I could not go and work on my farm. They would hide and surprise us when we went to our farms. If they caught us, they might beat or kill people. Sometimes they would take the people they caught with them. Those that escaped told us this.

Under such circumstances, villagers are not allowed to leave the village to work on their farms or plantations. Without constant care, these villagers' crops fail and their livelihoods are destroyed. Villagers are left without a job—for many, these severe restrictions are ultimately what drive them to leave Burma and find work in Thailand.

Typically, villagers were allowed out of their villages only on certain days each month, or only if they paid fees to secure a permit. In one village in Ye Township, villagers were not allowed to leave the village more than once a month unless they paid a fee of 2,000 kyat each time.¹⁴² Permits were frequently expensive to obtain and even still, villagers were seldom allowed the opportunity to purchase them. In Hongam, Mon State, access to farms is reportedly prohibited from between seven and twelve months of the year. Even during the non-restricted periods, permission cards were required to access the farms. One trader explained that, “on this card, an expiration date is written, but some villagers cannot read or write Burmese so they do not know when the expiration date is.”¹⁴³ The permission cards were frequently checked, and farmers who possessed expired cards were threatened, forced to pay fines, or beaten.

“They threatened me not to go to the farm; if I did, they said they would shoot and kill me. They said I could not go back, and I was afraid and ran away. [It] made me feel sick and depressed. . . [W]e left one month later.”

—Shan Villager

Many of these restrictions are placed on villages that have farming as the main source of income. One such villager from southern Ye Township, says: “I relied on my rubber plantation alone and had no alternative work to replace it if the plantation was destroyed. Therefore, I took care of it like my own newborn baby.”¹⁴⁴ He went on to describe in detail the effects of the inordinate amount of rules and restrictions placed on villagers concerning access to their farms. Especially difficult for him and the other rubber plantation workers from his village were the restrictions on staying overnight in the plantations and bringing extra food. He explains that, “They did not

¹⁴² ERI Interview #75 (2004).

¹⁴³ ERI Interview #83 (2004).

¹⁴⁴ ERI Interview #122 (2004).

allow us to sleep in our plantations or rice farms because they are afraid that we are sympathizers of the rebel groups. Nor did they allow us to bring food such as rice for more than one person with us. If they saw we brought a lot of food with us, we would be asked many questions. If we did not have good luck on that day, we would be beaten.” These two restrictions made it very difficult to work on the plantations:

. . . with rubber plantations, villagers must go to their plantations in the early morning to cut the rubber. Some rubber plantation owners, who own plantations far from the village, had to sleep at the plantations so they could be on time. We cannot cut the rubber gum during the daytime because it does not produce much gum then, and sometimes, it will become a solid substance. Therefore, it is necessary to sleep at the plantation. When they are not allowed to sleep there, it impacts their livelihood terribly. Additionally, when we cannot cut the gum regularly, it does not produce as much gum as possible.

Sometimes the restrictions on access to farms and plantations were accompanied by expropriations of the villagers’ food by the military. In several villages, large amounts of rice were destroyed in order to ensure that it would not be used to feed insurgents.¹⁴⁵ Oftentimes the rice and other crops were not destroyed, but were taken by the military for food, or to be sold, the profits to be retained by the soldiers. During the harvests, sometimes villagers were allowed access to their farms to prepare the crops, but not allowed to return to their farms in order to collect them. One farmer from Southern Ye Township reported: “On my farm, we picked the ripe betel nut and left them to dry at the plantation. Later the soldiers would not allow us to return to the farm and the soldiers took all the betel nut. It was harvest time when I left, and this was happening almost every day.”¹⁴⁶ This woman finally left her village because these prohibitions had left her without a job.

Where villagers are caught trying to access their farms they face harsh penalties: some were forced to pay large fines, others were threatened with arrest or even death. In May 2004, one girl was raped when she was found in a plantation at a prohibited time. A villager from Kwanthamoi in Mon State described the incident: “A girl, who is about sixteen years old, went to her rubber plantation during a prohibited time, but she was unaware of it. When SPDC soldiers saw her in the plantation alone, they came to arrest her, but also raped her. About five soldiers raped her in the plantation. Afterwards, she ran to her parents and lost consciousness. Her parents had to take her to the hospital for treatment.”¹⁴⁷ Due to the shame of being raped, the girl subsequently moved to another village.

These continuous restrictions cause villagers to lose their primary source of income, without which, they are unable to survive. When these are the conditions, there is nothing for villagers to do but leave. The problems do not end and villagers have no control over their situations:

¹⁴⁵ ERI Interviews #52, 56 and 68 (2004); *see also* ERI Interview #109 (2004) (villagers not allowed to keep more than half a tin of rice at any one time).

¹⁴⁶ ERI Interview #73 (2004); *see also* ERI Interview #72 (2004).

¹⁴⁷ ERI Interview #85 (2004).

“When they said stop, we had to stop, and when they said go, we had to go. Because of their guns, we have to be their slaves.”¹⁴⁸

2. Difficulties for Village Heads

Village heads hold an important role in the villages of Burma. However, what was traditionally a revered position that villagers would aspire to hold, is now one they avoided in many areas. Some villages are so fearful of the threats and violence that the village headmen are susceptible to that they will rotate headmen as often as every couple of weeks. This shirking away from the most central position in the village causes severe harm for the harmony of the village itself, uprooting the traditional village structures. The violence directed at the most central figure in the village reverberates, making villagers feel especially weak and vulnerable. When villages are thrown out of balance in these ways, they are also more prone to the toll of attrition.

It is not surprising that the village head has become such an unwanted responsibility, given the many threats and severe violence that they face. Village heads typically fear retribution from the military when their villagers did not pay fees. Interviewees reported that village heads would be harmed if villagers did not pay. One rice farmer in Ye Township reports that Clat Shle, the village head who had led his community for twenty years, was not trusted by the military. He was forced to leave the village in the spring of 2004 because the soldiers threatened to kill him. They “arrested him and beat him and dislocated his shoulder.”¹⁴⁹ Another interviewee reported:

People in Wan Mai could not refuse to work; if they did, the military asked for money—two to three thousand kyat. If they could not pay, the headman would have a difficult time. Once, some villagers refused to work on the camp, and the soldiers kicked and beat the headman.¹⁵⁰

Only one interviewee reported that his village head could voice his opinions against heavy fees and forced labor. But, as he points out, his headman is an Indian—not Shan—and politically powerful, and thus the military does not want to oppose him.¹⁵¹ This is a unique situation. Usually village heads are local farmers who were born in the village that they lead. In most of the cases reported, if the village head proactively asserted his villagers’ rights not to be forced to pay fees or engage in forced labor, interviewees report he would often suffer more than a beating; he would have his possessions or even his life taken away. A 38-year-old farmer from Southern Ye reported that village heads were forcibly removed more than once from her village and neighboring villages.

As she explains:

My village head changes often; some escape and some are shot. The last village heads were shot two years ago by military. Their names were Nai Aung Sai and

¹⁴⁸ ERI Interview #82 (2004).

¹⁴⁹ ERI Interview #72 (2004).

¹⁵⁰ ERI Interview #52 (2004).

¹⁵¹ ERI Interview #55 (2004).

Nai Yod Pu. Also another has been shot by the military. Nai Aung Sai was my relative. The others we were told about by villagers from other villages¹⁵².

This same interviewee also described how her friend, who was head villager in May 2004, opposed the military for taking a cow and was beaten in response. He was forced to escape because of his outspokenness, and the soldiers took all of his possessions, including his betel nut plantation.¹⁵³

Another interviewee from a town near the Thailand border also reports that village heads were killed for voicing their concerns about forced labor:

[I]f the village head is good at helping their people, they are killed or disappeared. A disguised military man will call the headman to visit the military camp. He will go and not return. Later people may see the bodies in the jungle when they go to look for food. This means that there are fewer and fewer people who can negotiate with the military to reduce forced labor. There are many examples of this—Murng Kurng, Nam Zarng, Kae See, Lai Cha, Kung Hing, Murng Nai, Murng Pan, Larng Kher, Murng Ton (every place except Hui Paw and Murng Su).¹⁵⁴

Thus, there is little that the average villager can do to avoid the excessive fees that harm his ability to earn enough to support his family. Even seeking the help of village authority members often leads to more violence, fear, and the loss of leadership that can protect them from greater oppression. Due to these conditions, villagers endlessly lose all their wealth, until they have nothing left. As one interviewee describes:

I think that forced labor has not decreased, but increased in the last four years. Like for example, I had two ox carts. The military took one ox cart. Then if they wanted more, they would take the other one. If my ox died or my cart was broken, I would just lose my property. Over time, it just gets worse and worse as you lose more property.¹⁵⁵

These accounts of the impact on the traditional village head structure typify the destructive societal forces and the attrition of the abuses. Through expropriations, fees, forced labor, forced village removal and many other acts of violence, villagers are worn down economically and psychologically until they flee in desperation.

3. Environmental Harms and Threats to Traditions of Local Resource Management

“It was so painful when I saw that my rubber trees were being cut down and made into firewood for the railway. They take my valuable plants that

¹⁵² ERI Interview #73 (2004).

¹⁵³ *Id.*

¹⁵⁴ ERI Interview #70 (2004).

¹⁵⁵ ERI Interview #60 (2004).

I have been taking care of for many years and cut its gum, just for a piece of firewood. I feel so much sorrow to see this happening.”

—Mon Villager¹⁵⁶

The presence of military forces places a heavy strain on the environmental resources available to villagers and results in the devastating depletion of natural resources that are very heavily relied upon. Villagers were frequently forced to cut down their bamboo or rubber trees in order to build camps, repair fences, or provide firewood for the military. Sometimes entire plantations were depleted, leaving villagers to travel long distances in order to meet their needs and the further orders of the military:

When I was the village headman, one of my villagers had a big bamboo garden. A military camp was to be built, so they ordered him to cut down the whole bamboo garden and build a military camp in that location. After his bamboo garden was destroyed, the soldiers told other villagers to give them bamboo as well. In our village, there are five bamboo garden owners who lost their bamboo gardens. When the other camps need bamboo now, we have to go outside of the village and it is hard to find. We have to cross the fields and look for the bamboo in the jungle. If the quality is not good, the military won't accept it.¹⁵⁷

Another villager comments that an owner of a betel nut plantation had all of her trees cut down pursuant to another military order:

When I went there, already close to 60 trees had been cut down. . . . The villagers were embarrassed and ashamed that they had to cut down the trees, but they had to obey the military. They also cut down the villagers' bamboo garden. They even cut down the young bamboo. Next year it will be very difficult to build or repair houses. They cut down the whole bamboo cluster and burned it to the ground.”¹⁵⁸

This destruction of natural resources impacts the individual owners who lose their own livelihood, but also severely impacts the future livelihood of the village and can ultimately necessitate the relocation of entire villages.

One villager also commented on the exhaustion of the village food supply that was caused by the military's consumption of and demand for young fish: “Sometimes we get an order from the military camp to give them fish, but the fish are not ready because they are too young. The military does not accept that reason, so we have to send the fish anyway. This is very bad because it impacts the entire pond. . . . I told them about the ways of fishing and taking care of the fishpond, but they don't listen.”¹⁵⁹

¹⁵⁶ ERI Interview #84 (2004). This plantation owner was beaten by the military and required hospitalization. His rubber plantations were confiscated. He has subsequently (2004) gone to work in Malaysia as an illegal worker, leaving behind his wife and two children.

¹⁵⁷ ERI Interview #110 (2004); *see also* ERI Interviews #100, 104 and 106 (2004).

¹⁵⁸ ERI Interview #106 (2004)

¹⁵⁹ ERI Interview #107 (2004)

4. Leaving Burma for Thailand: The Disruption Continues

Ongoing forced labor is a common reason that compel people to flee to Thailand. Forced labor makes it challenging for farmers to earn an income and survive. Despite all the difficulties of living in Burma, many people are reluctant to move to Thailand. Life in exile brings threats of arrest and deportation, and creates a dispersed community living in fear and isolation. One village lamented:

This is my first time to Thailand. I have never been to Thailand, and I never thought of going to Thailand. My friends who went to Thailand were arrested and deported back to Burma. Getting into Thailand is not easy. My friends had to spend a lot of money to enter Thailand illegally. Some of them even sold their homes, gardens or farms to pay the fee to enter Thailand. Those friends who were arrested by the Thai police came back to Burma and had lost everything. Some of those who went to Thailand became refugees and now live in refugee camps. For those reasons, I never wanted to go to Thailand, but this time I had no choice. I have nothing, and I need to survive.¹⁶⁰

Leaving Burma for Thailand is both a difficult decision to make, and a deeply unsatisfactory one to face. While Thailand is many villagers' last hope for survival, the journey to Thailand and conditions upon arrival leave much to be desired. Thailand, for most villagers, is an unknown, and leaving Burma means leaving behind family members and communities that some have been a part of for many years. Working in Thailand is illegal, and consequently, villagers face the constant fear of arrest and deportation. One villager explains his prior experience with working and living in Thailand: "I went to Thailand one time. It was three years ago. I could not save money like others, because I was unable to get a good job. Finally, I was caught by the police and repatriated to the Thai-Burmese border to Halockani camp. From that time on, I have never gone to Thailand again, due to that terrible experience in their kingdom."¹⁶¹

Being in the country illegally also leaves Burmese villagers at a high risk of exploitation and abuse, as they are unable to avail themselves of any help from the Thai authorities. Other reports have documented the extreme vulnerability of the Burmese immigrants in Thailand, especially in the area of trafficking of women and girls for the sex trade.¹⁶²

The reality is that villagers are never able to leave Burma behind in full, no matter how much they wish they could—the many years of fear, violence and extraordinary hardship take their toll and leave permanent scars on many villagers. Long after the forced labor demands have ended, their echoes remain:

¹⁶⁰ ERI Interview #91 (2004).

¹⁶¹ ERI Interview #94 (2004).

¹⁶² Human Rights Watch, "A Modern Form of Slavery – Trafficking of Burmese Women and Girls into Brothels in Thailand," (1993) (noting dangers and exploitation of Burmese refugees in Thailand). The report further notes that Burmese women and girls have made up the largest portion of the sex trade in Thailand since 1989. *Id.*

Now, I suffer very much from my experiences. When I hear about people facing the same problems as I did, I get very scared and cannot sleep at night. My heart beats very quickly. I always envision how the soldiers beat me. I try to read the Bible, but it does not help me. I don't know why the soldiers treat the people like this. If they ask for things, we always follow their orders. But they still treat us like this. When I listen to a tape cassette, or hear a loud noise, my ears feel pain. When I climb up a mountain, I cannot breathe well. My health is getting worse and worse. I cannot carry heavy things like I used to. Now I just sit and do simple work. My wife has to work very hard, and I feel so sad for my wife and family.¹⁶³

¹⁶³ ERI Interview #109 (2004).

III. CONCLUSIONS AND RECOMMENDATIONS

This report recounts repeated testimonials of the hardship villagers are facing in the areas along the Thai-Burmese border. Their stories demonstrate both the far-reaching impacts of ongoing forced labor by the military regime in the area, and the need for concerted international action to address the oppression with which the people of Burma live each day.

A. THE RIGHT TO FREEDOM FROM FORCED LABOR

International law firmly establishes the illegality of forced labor and creates obligations on Burmese authorities to take firm action to end its practice. As a modern form of slavery, forced labor is a fundamental non-derogable norm.¹⁶⁴ The Universal Declaration of Human Rights states: “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”¹⁶⁵ The International Covenant on Civil and Political Rights also prohibits slavery, servitude and forced or compulsory labor; the prohibitions are non-derogable.¹⁶⁶

In 1955, Burma accepted these legal obligations by signing and ratifying ILO Convention (No. 29) which bans practice of forced labor (which narrow exceptions).¹⁶⁷ The Convention defines forced labor as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”¹⁶⁸ Except on rare occasions where forced labor may be permissible, the Convention provides for absolute prohibitions against conscription of females, minors (under the age of eighteen), and people over the age of 45.¹⁶⁹ The Convention also entitles all those who are enlisted for forced labor to proper wages for their services.¹⁷⁰ The testimonies of villagers consistently illustrate that the Burmese military continues to violate such specific provisions of the Convention and the well-established international principles outlawing the practice more generally.

¹⁶⁴ See, e.g., Statement on Foreign Relations (3rd)

¹⁶⁵ Universal Declaration on Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948); art. 4. Article 23 further notes that everyone is entitled to “free choice of employment,” favorable working conditions and just remuneration. *Id.*, art. 23. Article 23 further notes that everyone is entitled to “free choice of employment,” favorable working conditions and just remuneration. *Id.*, art. 23.

¹⁶⁶ International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, art. 8. The Rome Statute of the International Criminal Court also outlaws enslavement, defining it as a crime against humanity (U.N. Doc. 2187 U.N.T.S. 90, entered into force July 1, 2002, art. 7). This may include forced labor; see, e.g., Ramasastry “Corporate Complicity: From Nuremberg to Rangoon 1 An Examination of Forced Labor Cases and Their Impact on the Liability of Multinational Corporations” 20 Berkeley J. Int’l L. 91. The argument here would be that since forced labor robs villagers of the use of their own labor and denies them wages for work done, it is a form of modern day slavery.

¹⁶⁷ Convention concerning Forced or Compulsory Labour (ILO No. 29), 39 U.N.T.S. 55, entered into force May 1, 1932.

¹⁶⁸ *Id.*, art. 2.

¹⁶⁹ *Id.*, art. 11.

¹⁷⁰ *Id.*, art. 14.

After years of international pressure from governments and the ILO, Burma finally agreed to outlaw the practice of forced labor through Order No. 1/99 and Supplemental Order No. 1/99.¹⁷¹ The testimonies in this report demonstrate that the Burmese authorities have failed to adequately implement these decrees. Forced labor remains a serious problem. Burmese authorities have also persistently refused to repeal the relevant sections of the Village and Towns Acts (which allow the use of forced labor), claiming that the Orders have the full force of the law and that the Village and Towns Acts are no longer relevant.¹⁷² In 2003, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) admonished the SPDC for this failure.¹⁷³ To date, the SPDC has yet to repeal this specific legislation, and until it does so, it will not be in conformity with its obligations under international law.

Nevertheless, on January 31, 2005, a decision by the Tawmhu Township court, convicting four officials of violating the ban on forced labor, brings hope that there may be justice for forced labor victims. This is the first time anyone in Burma has been convicted for using forced labor.¹⁷⁴ Villagers in the border region, however, know little about the ban on forced labor and have virtually no ideas how to complain.¹⁷⁵ In 2003, three villagers named Shwe Mahn, Min Kyi, and Aye Myint who performed forced labor were sentenced to death for high treason, a charge that included having provided information to the ILO. These sentences were subsequently quashed after their cases received international attention. Burmese authorities have now released two of the three from prison.¹⁷⁶ As long as villagers live in fear of complaining against the perpetrators, as they do in the border regions, the impunity will continue.

B. RECOMMENDATIONS¹⁷⁷

To address the current impunity and the ongoing pervasive use of forced labor in border regions that is threatening the fabric of society in those areas, EarthRights International makes the following recommendations:

¹⁷¹ Order No. 1/99 (May 1999) and Supplemental Order to Order No. 1/99 (2000).

¹⁷² Government's statement in its reply to the Committee's comments dated 30 May 2003

¹⁷³ "Noting the Government's statement in its reply to the Committee's comments dated 30 May 2003 that Order No. 1/99 and its supplementary order have the force of law and the Towns Act and the Village Act are no longer referred to, the Committee trusts that the Government will therefore have no difficulty in repealing the relevant provisions of these Acts, in order to bring the legislation fully into conformity with the Convention." CEACR: Individual Observation concerning Convention No. 29, Forced Labour, 1930 Myanmar (ratification: 1955) March 2004, art. 7 (Accessed online at: <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloilc&document=59&chapter=3&query=Myanmar%40ref&highlight=&querytype=bool&context=0>).

¹⁷⁴ See "4 Myanmar officials get jail over forced labor," Yahoo! Asia News, February 3, 2005

(<http://asia.news.yahoo.com/050203/kyodo/d8810he80.html>). Those convicted include Sein Paw, Chairman of the Tanmanaing Village Tract Peace and Development Council, who was sentenced to 16 months in jail, and three members of village councils who were sentenced to eight months each. *Id.*; see also Report of the Liaison Officer a.i., *supra* note 10, para. 8.

¹⁷⁵ See Part II.G: Awareness of Order. No. 1/99 and Faulty Complaint Mechanisms.

¹⁷⁶ Report of the Liaison Officer a.i., *supra* note 10, para. 7.

¹⁷⁷ These recommendations are drawn largely from an ERI Policy Statement on the Joint Plan of Action agreement between the SPDC and the ILO. See ERI Policy Statement, *supra* note 5.

1. To the SPDC

Disseminate Order 1/99: There was very little awareness of the terms of Order 1/99 in the border areas in which we interviewed, despite the assertion of the SPDC that copies of the Order have been distributed throughout Burma. Most of the victims of forced labor that we interviewed reported that they had never even heard of the Order. Within the ethnic areas of Burma, there is almost no one who is aware that those who violate the ban on forced labor can be prosecuted under §374 of the Penal Code and other relevant statutes. Efforts must be made to inform people of the prohibition on forced labor, while safe enforcement/complaint mechanisms are concurrently strengthened. Dissemination of the Order may serve to build up pressure within the country, although it should be made clear that, as of yet, complaints procedures are not properly in place. It is equally important that Order 1/99 be made available in all of the country's major languages. Radio and television broadcasts should be adopted particularly in ethnic minority areas where literacy is low.

Pass legislation fully outlawing forced labor. Current decrees by the military do not fully ban forced labor. SPDC should pass legislation fully banning the practice and repeal existing legislation that allows the practice. Specifically, the SPDC should ratify and adhere to ILO Convention No. 105 (1957), supplementing Convention No. 29 (1930) to which Burma is a signatory. ILO Convention No. 105 calls for the immediate and complete abolition of any form of forced or compulsory labor in five main areas:

1. As a means of political coercion or education or as a punishment for holding or expressing views ideologically opposed to the established political, social or economic system
2. As a method of mobilizing and using labor for the purposes of economic development
3. As a means of labor discipline
4. As a punishment for having participated in strikes
5. As a means of racial, social, national or religious discrimination

Establish credible, independent and effective complaint and investigative mechanisms: Both civilian and military courts should prosecute violators. Judges, lawyers, police, and court personnel should have specific training on the ban of forced labor. The law should allow police and prosecutors to have full autonomy when initiating investigations and prosecutions. Mechanisms should be put in place to prevent retaliation against those complaining. If retaliation does occur, the perpetrators should be prosecuted for such actions.

Investigate and prosecute violators, including military personnel: Burmese authorities should investigate and prosecute those using forced labor, including military personnel. To date, no military officials have been charged despite evidence of their involvement in widespread abuses, especially in border regions.

Re-Prioritize the Training of Military Personnel: Training workshops should be provided for both public officials and military personnel. Currently training workshops, as currently set forth, prioritize the training of public officials over military personnel, who are only to take part in the training during its second phase. Military personnel play an enormous role in ongoing forced labor abuses, and training workshops must be equally mandated for them.

Ensure that All Burmese Residents Have Equal Access to Complaints Mechanisms: Under current law, appropriate identification papers are needed in order to file complaints in government courts of law. This unjustly discriminates against many Burmese who are unable to present proper residency documents. The law needs to recognize that these papers are often never received by those who live in border areas, and are unavailable to those displaced by anti-insurgency campaigns or forced to flee the country because of forced labor and other human rights abuses. This law also discriminates against the Rohingya, a Muslim ethnic group based in the northern Arakan State, who are denied basic citizenship rights under the discriminatory 1982 Burma Citizenship Law. Contrary to the assertion made by the Burmese government in the “Joint Plan of Action for the Elimination of Forced Labor Practices in Myanmar” that “It is evident that there are legal provisions as well as mechanisms for those who have been subjected to forced labor or those whose rights have been violated,” there remain large segments of the population who are routinely denied legal recourse.¹⁷⁸

2. To the International Labor Organization

Call on the SPDC to pass legislation: Thus far, Order 1/99 and its Supplement have not completely prohibited forced labor. There must be a continued call for complete legal prohibition of forced labor. The problems with the current decree are numerous: Order 1/99 can be rescinded at any time since it does not have the effect of law. While the government claims it does not have the power to pass laws, it has in fact done so in the past. If Order 1/99 were revoked, the underlying laws that permit forced labor (§§8(1) and 11(d) of the Village Act, 1907 and §§7(1) and 9(b) of the Towns Act, 1907) would still be in place. The Village and Towns Acts must be repealed in order for Burmese law to fully conform to ILO Convention No. 29 which bans forced labor.

Monitor complaints and review complaint mechanisms: In some cases strict penalties have been imposed on people who have tried to complain, formally or informally, about forced labor. Whenever a person is penalized for complaining about forced labor, their plight should be monitored by the ILO and pressure should be put on the SPDC to conform to their legal obligations. It is currently unsafe for people to report violations of Order 1/99. The situation must be monitored and efforts made to establish safe complaint mechanisms that are accessible to as many individuals and communities as possible.

Return to the 2000 position: In 2000, the ILO recommended that states review their investments in, and relationship with Burma to ensure that they were not contributing to the continued reliance on forced labor. The regime’s failure to curb forced labor demands that there be a return to this standpoint. Failure on more than one occasion since 2003 to effectively implement the “Joint Plan of Action for the Elimination of Forced Labor Practices in Myanmar” shows that the government has not taken this plan seriously. The inability of the Burmese government to demonstrate its commitment to eradicating the problem of forced labor leaves few alternatives than to retreat to the ILO commission measures of 2000.

¹⁷⁸ <http://www.ilo.org/public/english/standards/relm/ilc/ilc91/pdf/pr-24p3.pdf>

Begin public awareness raising campaign immediately: The Joint Plan of Action of 2003 outlined supporting an intensive public awareness campaign. Efforts to raise awareness are crucial to eradicate forced labor. The ILO should immediately begin its public information campaign in the major languages of Burma to spread accurate information about forced labor.

3. To the International Community

Continue to monitor forced labor: There is much focus on the National Convention and the Roadmap to Democracy. Whilst concentration on the political climate is important, the issue of forced labor should not be subsumed under it. It is important that the regime continue to be held responsible for the forced labor occurring under its auspices.

Exert pressure on ILO: The international community should strengthen the ILO's existing resolutions on Burma to require that the organization's tripartite constituency (government, employers, workers) take concrete actions in a timely manner to help eliminate all trade with and assistance to the regime that contributes or may contribute to forced labor practices.

Permit access to NGOs and international agencies: The governments of neighboring nations to Burma should permit international agencies and non-governmental organizations to safely operate within their countries in order to monitor refugees and the situation of forced labor and other human rights violations in Burma.

Oppose development projects in Burma: The international community should oppose large infrastructure projects such as dams in Burma, as they have been shown to contribute to the practice of forced labor. Until verifiable evidence is made available that labor abuses are no longer widespread or systematic, governments and international agencies should oppose development projects that may contribute to the continuation of forced labor in the country. Transnational corporations should also refrain from engaging in such projects. Governments, development aid agencies, and international financial institutions in particular, should make it clear that aid is not available to the SPDC unless minimum international labor standards are assured. There should also be incentives and penalties to discourage private industry from participating in development ventures, and legal sanction where specific evidence of the use of forced labor is found.

Ensure protection for refugees: The international community should ensure the adequate protection of those who face retaliation for speaking out against forced labor or making complaints about the violation of Order No. 1/99, by adhering to the existing principles of refugee jurisprudence. This applies to all Burmese refugees, and in particular to the Rohingya, who are unable to acquire a nationality due to the citizenship requirements under the 1982 Citizenship Law, despite the fundamental principle under international law that no one should be arbitrarily denied the right to nationality.¹⁷⁹ In order to adequately protect refugees and stateless persons, those countries to where such victims of forced labor and other human rights abuses

¹⁷⁹ Article 15 of the Universal Declaration of Human Rights maintains that "Everyone has the right to a nationality and no one shall be arbitrarily deprived of his nationality or denied the right to change his nationality." Accessible online at <http://www.un.org/Overview/rights.html>.

have fled should ensure their protection through a grant of refugee status. Efforts should also be made to prevent their return to Burma where they remain vulnerable to further abuses.¹⁸⁰

¹⁸⁰ See Human Rights Watch report, "Living in Limbo: Burmese Rohingya in Malaysia," August 2000. Vol. 12 No. 4. accessible online at <http://www.hrw.org/reports/2000/malaysia/>.